





ONTARIO

REVISED STATUTES OF ONTARIO, 1960

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
REVISION ACT, 1959

IN FIVE VOLUMES

VOL. 2

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER

REVISED STATUTES OF ONTARIO, 1960

VOLUME 2

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CHAPTER 129

The Factors Act

1.—(1) In this Act,

Interpre-
tation

- (a) “document of title” includes a bill of lading and warehouse receipt as defined by *The Mercantile Law Amendment Act*, a warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented;
- (b) “goods” includes wares and merchandise;
- (c) “mercantile agent” means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods;
- (d) “pledge” includes a contract pledging or giving a lien or security on goods, whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability.

(2) A person shall be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or on his behalf. R.S.O. 1950, c. 125, s. 1.

Possession

2.—(1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, a sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent, is, subject to this Act, as valid as if he were expressly authorized by the owner of the goods to make the disposition, if the person taking under it acts in good faith and has not at the time thereof notice that the person making it has not authority to make it.

Powers of
agent as to
disposition
of goods

**Revocation
of consent**

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of documents of title to goods, a sale, pledge or other disposition that would have been valid if the consent had continued, is valid notwithstanding the termination of the consent if the person taking under the disposition acts in good faith and has not at the time thereof notice that the consent has been terminated.

**Derivative
documents**

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been, with the consent of the owner, in possession of the goods represented thereby, or of any other documents of title to the goods, his possession of the first mentioned documents shall, for the purposes of this Act, be deemed to be with the consent of the owner.

Presumption

(4) For the purposes of this Act, the consent of the owner shall be presumed in the absence of evidence to the contrary. R.S.O. 1950, c. 125, s. 2.

**Effect of
pledge of
documents
of title**

3. A pledge by a mercantile agent of the documents of title to goods shall be deemed to be a pledge of the goods. R.S.O. 1950, c. 125, s. 3.

**Pledge for
antecedent
debt**

4. Where a mercantile agent pledges goods as security for a debt due from or liability incurred by the pledgor to the pledgee before the time of the pledge, the pledgee acquires no further right to the goods than could have been enforced by the pledgor at the time of the pledge. R.S.O. 1950, c. 125, s. 4.

**What con-
sideration
necessary**

5. The consideration necessary for the validity of a sale, pledge or other disposition of goods by a mercantile agent in pursuance of this Act may be either a payment in cash or the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or any other valuable consideration, but, where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or of other valuable consideration, the pledgee acquires no right or interest in the goods so pledged in excess of the value of the goods, document, security or other valuable consideration when so delivered or transferred in exchange. R.S.O. 1950, c. 125, s. 5.

**Agreements
through
clerks, etc.**

6. For the purposes of this Act, an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent. R.S.O. 1950, c. 125, s. 6.

7.—(1) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee has, in respect of advances made in good faith to or for the use of such person, the same lien on the goods as if such person were the owner of the goods, and may transfer any such lien to another person.

Rights of consignee making advances in good faith

(2) Nothing in this section limits or affects the validity of a sale, pledge or disposition by a mercantile agent. R.S.O. 1950, c. 125, s. 7.

Sale, etc., by mercantile agent

8. Subject to *The Warehouse Receipts Act*, for the purposes of this Act the transfer of a document of title may be by endorsement or, where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer, then by delivery. R.S.O. 1950, c. 125, s. 8.

Mode of transferring documents. R.S.O. 1960, c. 424

9.—(1) Nothing in this Act authorizes an agent to exceed or depart from his authority as between himself and his principal or exempts him from any liability for so doing.

Liability of agent

(2) Nothing in this Act prevents the owner of goods from recovering them from his agent at any time before their sale or pledge, or prevents the owner of goods pledged by an agent from having the right to redeem them at any time before their sale on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto, or any of them, by way of lien as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

Rights of owner to recover possession, etc.

(3) Nothing in this Act prevents the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for them, or any part of that price, subject to any right of set off on the part of the buyer against the agent. R.S.O. 1950, c. 125, s. 9.

Price from buyer

10. This Act shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Act. R.S.O. 1950, c. 125, s. 10.

Amplification of powers of agents

CHAPTER 130

The Factory, Shop and Office Building Act

PART I

1. In this Part,

Interpre-
tation

- (a) "bakeshop" means a building, premises, workshop, structure, room or place wherein is carried on the manufacture or sale of confectionery, or of bread, biscuits, cakes or any other food product made from flour, or from meal or from both, in whole or in part, and includes any room or rooms used for storing the confectionery, bread, biscuits, cakes and other food products and materials;
- (b) "bodily injury" includes injury to health;
- (c) "child" means a person under the age of fourteen years;
- (d) "employer", as applied to a factory, shop, bakeshop or restaurant, means a person who in his own behalf, or as the manager, superintendent, overseer or agent has charge of a factory, shop, bakeshop or restaurant, and employs persons therein, and in the case of an office building includes the superintendent, manager or caretaker thereof;
- (e) "engineer of the Department" means a professional engineer as defined in *The Professional Engineers Act* appointed to enforce this Part; R.S.O. 1960.
c. 309
- (f) "factory" means,
 - (i) a building, premises, workshop, structure, room or place in which any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,
 - (ii) a premises or any part of a premises where any form of thermal, hydraulic, electrical, aerodynamic, kinetic, chemical, nuclear, solar or other form of energy is used to work any machinery or device, or where any form of such energy is modified in any manner in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing,

- (iii) a building, workshop, structure, premises, room or place wherein the employer of the persons working there has the right of access and control, and in which or within the precincts of which any manual labour is exercised by way of trade or for purposes of gain in or incidental to the making of any goods, substance, article or thing or any part thereof, or the altering, repairing, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, and includes a plant used for the maintenance of aircraft, locomotives or vehicles used for transport purposes;
- (g) "inspector" means an inspector appointed by the Lieutenant Governor in Council to enforce this Part and includes the chief inspector;
- (h) "mill-gearing" includes every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley or other appliance by which the motion of the first motive power is communicated to any machine appertaining to a manufacturing process;
- (i) "Minister" means the Minister of Labour;
- (j) "office" includes a building or that part of a building occupied and under the control of a separate employer and used for office purposes;
- (k) "office building" means a building used or occupied for office purposes and not as a shop or factory, and includes a part of a building when so used or occupied;
- (l) "owner" means the person for the time being entitled in his own right or as a trustee, mortgagee in possession, guardian, committee, agent or otherwise to receive the rents, issues and profits of any premises used as a factory, shop, bakeshop, restaurant or office building so far as such rents, issues and profits are not payable solely in respect of the use or occupancy of land apart from any buildings or other improvements erected or situate thereon;
- (m) "parent" means a parent or guardian of, or a person having the legal custody of, or the control over, or having direct benefit from the wages of a youth or young girl;
- (n) "regulations" means the regulations made under this Part;

- (o) "restaurant" means a dining room, cafeteria, cafe, buffet or any place where meals or refreshments are served to order, but does not include a restaurant or a dining room in connection with an hotel, unless operated under separate management;
- (p) "shop" means a building or a part of a building, booth, stall or place where goods are handled or exposed or offered for sale, or any building or part of a building, booth, stall or place where services are offered for sale or where goods are manufactured and that is not a factory to which this Act applies, and includes a bowling alley, pool room and billiard parlour;
- (q) "woman" means a woman of eighteen or more years of age;
- (r) "young girl" means a girl of the age of fourteen years and under the age of eighteen years;
- (s) "youth" means a male of the age of fourteen years and under the age of sixteen years. R.S.O. 1950, c. 126, s. 1; 1957, c. 32, s. 1; 1960, c. 34, s. 1, *amended*.

2.—(1) Nothing in this Part shall be deemed to interfere in any way with the powers and duties of local boards of health or the officers appointed under *The Public Health Act*.

Health officers not affected
R.S.O. 1960, c. 321

(2) For the purposes of this Part in respect to sanitary measures, the Deputy Minister of Health or any officer of the Department of Health designated by the Minister of that Department or any medical officer of health may act jointly with or independently of an inspector under this Part. R.S.O. 1950, c. 126, s. 2.

Administration

3. A building, or a part of a building, used and occupied by a municipal or school corporation or by a municipal commission for office purposes shall be deemed an office building within the meaning of this Part, and the municipal or school corporation or commission owning or occupying any such building or part of a building shall be deemed the owner thereof within the meaning of this Part notwithstanding that no rents, issues or profits are derived therefrom. R.S.O. 1950, c. 126, s. 3.

"Office building", definition enlarged

4. Nothing in this Part extends to a mechanic, artisan or labourer working only in repairing either the machinery in or any part of a factory, shop, bakeshop, restaurant or office building. R.S.O. 1950, c. 126, s. 4.

Act not to apply to persons working only at repairs

5.—(1) A part of a building used as a factory, shop, bakeshop, restaurant or office building may, with the written

When separate factory

approval of an inspector, for the purposes of this Part be taken to be a separate factory, shop, bakeshop, restaurant or office building.

Dwelling or
sleeping
room not
part of
factory

(2) A place used as a dwelling or sleeping room only shall be deemed not to form part of a factory, shop, bakeshop, restaurant or office building for the purposes of this Part.

When
separate and
when part

(3) Where a place situate in the close or precincts forming a factory is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory, such place shall be deemed not to form part of that factory for the purposes of this Part, but shall, if otherwise it would be a factory, be deemed to be a separate factory and be regulated accordingly.

When
premises in
open air not
excluded

(4) Any premises or place shall not be excluded from the definition of a factory by reason only that such premises are or place is in the open air. R.S.O. 1950, c. 126, s. 5.

Certain
laundries to
be deemed
factories

6.—(1) Every shop, building or room in which one or more persons are employed in doing public laundry work by way of trade or for the purpose of gain shall be deemed a factory to which this Part applies.

Home
laundry
work
excepted

(2) This section does not apply to a dwelling in which a female is engaged in doing custom laundry work at her home for a regular family trade. R.S.O. 1950, c. 126, s. 6.

Where not
more than
five
employed
and no
power

7.—(1) Except where machinery operated or driven by steam, electric or other motive power is used, this Part does not apply to a factory where not more than five persons are employed and no power other than manual labour is used for any manufacturing process carried on there.

Where more
than five
sometimes
employed

(2) A factory in which in any calendar year more than five persons are employed at any one time shall during that year be deemed a factory unless an inspector is satisfied that less than six persons are usually employed therein.

Members of
family at
home in
shop

(3) This Part does not apply to a shop where only members of the employer's own family dwelling in a house to which the shop is attached are employed at home unless machinery is used that is operated by steam, electric or other power, except hand power. R.S.O. 1950, c. 126, s. 7.

Who to be
deemed
employed

8.—(1) Where the owner, occupier or tenant of a premises, building, workshop, structure, room or place who has the right of access thereto and control thereof contracts for work or labour to be done therein by any other person, or lets or hires out any part thereof for that purpose, and such other person engages or employs therein any workman, youth, young girl or woman in or for the carrying out or performing of such work or labour, or any part thereof, every such workman,

youth, young girl or woman shall, for all the purposes of this Part, be deemed to be in the service and employment of such owner, occupier or tenant.

(2) In computing the number of persons employed in a place in order to ascertain if the place is a factory to which this Part applies, every such workman, youth, young girl or woman shall be counted. R.S.O. 1950, c. 126, s. 8. Mode of computing numbers employed

9.—(1) Every person found in a factory, except at meal times or except while all the machinery of the factory is stopped, or for any other purpose than that of bringing food to the persons employed in the factory, shall, until the contrary is proved, be deemed for the purposes of this Part to have been then employed in the factory. Evidence as to employment

(2) Playgrounds, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on shall not be taken to be part of the factory for the purposes of this section. R.S.O. 1950, c. 126, s. 9. Places not part of factory

10.—(1) A youth, young girl or woman who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning a part of the factory used for a manufacturing process or handicraft, or in cleaning or oiling a part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made, or otherwise the subject of the manufacturing process or handicraft therein shall, save as is herein otherwise provided, be deemed to be employed in such factory. When a youth, young girl or woman to be deemed employed

(2) For the purpose of this section, an apprentice shall be deemed to work for hire. R.S.O. 1950, c. 126, s. 10. Apprentices

11.—(1) In every factory, shop and restaurant the employer shall keep a register of the youths, young girls and women employed in the factory, shop or restaurant and of their employment, in the prescribed form, and shall send to the chief inspector such extracts from any register kept in pursuance of this Part as he from time to time requires for the execution of his duties, and shall permit an inspector at all times to inspect such register. R.S.O. 1950, c. 126, s. 11 (1), *amended*. Register

(2) Every employer who contravenes any of the duties imposed by subsection 1 is guilty of an offence and on summary conviction is liable to fine of not less than \$10 and not more than \$30. R.S.O. 1950, c. 126, s. 11 (2), *amended*. Offence

12. Where, in a factory or shop, the owner or hirer of a machine or implement moved by steam, water, electricity or other power in or about or in connection with which machine Who to be deemed employer in certain cases

or implement a youth, young girl or woman is employed, is a person other than the employer, and such youth, young girl or woman is in the employment and pay of the owner or hirer of such machine or implement, he shall, so far as respects any offence against this Part that may be committed in relation to such youth, young girl or woman, be deemed to be the employer. R.S.O. 1950, c. 126, s. 12.

Drawings
and speci-
fications to be
submitted

13.—(1) No person shall construct or reconstruct a building or alter an existing building,

- (a) that is to be or is used as a factory;
- (b) that is to be or is used as a shop, bakeshop, restaurant or office building and is to be or is more than two storeys in height; or
- (c) that is to be or is used as a shop, bakeshop, restaurant or office building and is to have or has more than 5,000 square feet of gross horizontal area in any storey enclosed within,
 - (i) exterior walls, or
 - (ii) any combination of exterior walls and interior walls without any opening to another building,

unless the drawings and specifications of the building to be constructed, reconstructed or altered have been approved by an engineer of the Department.

Application

(2) Before constructing, reconstructing or altering any such building, an application in the prescribed form together with drawings and specifications, in duplicate, of the proposed construction, reconstruction or alterations and the estimated cost thereof shall be submitted to an engineer of the Department for approval.

Estimated
cost
and fees

(3) Upon receipt of the application, an engineer of the Department shall estimate the cost of the proposed construction, reconstruction or alterations and shall inform the applicant of the estimated cost approved by him and the fees required to be paid for the approval of the drawings and specifications.

Approval

(4) When the fees for the approval of the drawings and specifications have been paid, an engineer of the Department shall examine them and, if they comply with this Act and the regulations, he shall certify his approval thereon and return one copy to the applicant, and the construction, reconstruction or alterations may be proceeded with only in accordance with the drawings and specifications as approved.

Offence

(5) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1957, c. 32, s. 2.

14.—(1) The owner, proprietor or manager of a factory shall not begin operations until he has received from the inspector a certificate of inspection of the factory and a permit to operate the same. Certificate of inspection before operating a factory

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to the penalties set out in section 69. R.S.O. 1950, c. 126, s. 14, *amended*. Offence

15. Every person shall, within one month after he begins to occupy a factory, transmit to the chief inspector a notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the motive power therein and the name of the firm under which the business of the factory is to be carried on, and in default he is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$30. R.S.O. 1950, c. 126, s. 15, *amended*. Notice to be sent to inspector by person occupying factory

16. Notwithstanding any other provision of this Part, the Minister may suspend or revoke any permit issued or granted under this Part. 1953, c. 35, s. 2. Power of Minister to revoke permits

ADMINISTRATION

17. The Lieutenant Governor in Council may for the purpose of carrying out this Part appoint as many inspectors, male or female, as is deemed necessary, one of whom he may designate as chief inspector who shall have the general supervision and direction of the other inspectors and the carrying out of this Part. R.S.O. 1950, c. 126, s. 16. Appointment of inspectors and chief inspector

18. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the nature of drawings and specifications to be submitted under this Part or the regulations and by whom such drawings and specifications shall be prepared or certified;
- (b) providing for the payment of fees for the approval by an engineer of the Department of drawings and specifications submitted to him and prescribing the fees therefor;
- (c) for the protection of the health, safety and welfare of persons employed in a factory, shop, bakeshop, restaurant or office building;
- (d) prescribing forms and providing for their use;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. R.S.O. 1950, c. 126, s. 17; 1953, c. 35, s. 3, *amended*.

Powers of
inspector

19.—(1) An inspector may, in the enforcement of this Part and the regulations,

- (a) enter, inspect and examine at all reasonable times by day or night any factory, shop, bakeshop, restaurant or office building when he has reasonable cause to believe that any person is employed therein, or any premises when he has reasonable cause to believe that such premises or any part thereof are being used as a factory, shop, bakeshop, restaurant or office building;
- (b) require the production of any register, certificate, notice or document required by this Part or the regulations to be kept, and inspect, examine and copy the same;
- (c) take with him a constable into a factory, shop, bakeshop, restaurant or office building in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, and whenever the inspector requires a constable authorized to act in the locality to accompany him, it is the duty of the chief constable and every member of the police force in the locality to render him such assistance in carrying out his duties under this Part as he may require, and to put down any resistance, obstruction or hindrance by force if necessary;
- (d) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Part are complied with so far as respects the factory, shop, bakeshop, restaurant or office building and the persons employed therein;
- (e) examine either alone or in the presence of any other persons, as he thinks fit, with respect to matters under this Part, every person whom he finds in a factory, shop, bakeshop, restaurant or office building or whom he has reasonable cause to believe to be, or to have been within the two preceding months, employed in a factory, shop, bakeshop, restaurant or office building, and require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined;
- (f) for the purpose of an investigation, inquiry or examination made by him under this Part, administer an oath to and summon any person to give evidence;
- (g) exercise such other powers as may be necessary for carrying out this Part.

(2) The owner and employer and his or their agents and servants shall furnish all necessary means in his or their power required by an inspector for any entry, inspection, examination, inquiry or the exercise of his powers in relation to such factory, shop, bakeshop, restaurant or office building. Duty of owner and employer

(3) Every person who wilfully delays an inspector in the exercise of a power under this section, or who fails to comply with a requisition or summons of an inspector in pursuance of this section, or to produce any certificate or document that he is required by or under this Part to produce, or who conceals or attempts to conceal, or prevents or attempts to prevent a youth, young girl or woman from appearing before or being examined by an inspector shall be deemed to obstruct an inspector in the execution of his duties under this Part. Obstructing inspector

(4) Where an inspector is obstructed in the execution of his duties, the person obstructing him is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$30 and, where he is so obstructed in a factory, shop, bakeshop, restaurant or office building, the employer is guilty of an offence and on summary conviction is liable to a like fine or, where the offence is committed at night, \$100. Offence

(5) It is the duty of every inspector to assist with the enforcement of *The Operating Engineers Act* by reporting to the Board of Examiners any contravention thereof, and to furnish to the Board such information as he has as to the conduct and capability of any person holding or applying for a certificate. Inspector's duties in enforcing provisions as to steam plants, etc. R.S.O. 1960, c. 282

(6) It is the duty of every inspector to report any contravention of section 9 of *The Minimum Wage Act* to The Industry and Labour Board. R.S.O. 1950, c. 126, s. 18. Inspector's duties as to enforcement R.S.O. 1960, c. 240

(7) An inspector may enforce the regulations made under *The Department of Labour Act*. Inspector may enforce regulations under R.S.O. 1960, c. 97

(8) Where a regulation made under *The Department of Labour Act* is contravened in a factory, shop, bakeshop, restaurant, office or office building, such premises shall be deemed to be kept so as to endanger the safety and health of persons employed therein. 1957, c. 32, s. 3. Contravention of regulations

20. Every inspector shall be furnished with a certificate of his appointment under the hand and seal of the Minister and on applying for admission to any premises shall, if required, produce his certificate. R.S.O. 1950, c. 126, s. 19. Certificate of appointment

Inspector
may take
medical
practitioner,
etc., into
factory

21. An inspector, whenever he deems it necessary, may take with him into any premises a legally qualified medical practitioner, medical officer of health or sanitary inspector. R.S.O. 1950, c. 126, s. 20.

Warrant
for entering
dwelling
without
consent of
occupier

22.—(1) An inspector, before entering, under the powers conferred by this Part without the consent of the occupier, any room or place actually used as a dwelling, shall obtain a warrant mentioned in subsection 2 from a justice of the peace.

Issue of
warrant

(2) The justice, if satisfied by information on oath that there is reasonable cause to suppose that a provision of this Part is contravened in any such room or place, shall grant a warrant under his hand authorizing the inspector named therein, at any time not exceeding one month from the date thereof, to enter the room or place named in the warrant and exercise therein the powers of inspection and examination conferred by this Part, and the provisions of this Part with respect to obstruction of the inspector apply. R.S.O. 1950, c. 126, s. 21.

When
inspector
may object
to give
evidence

23. Where an inspector is called as a witness, he may, by the direction and on behalf of the Attorney General or of a member of the Executive Council, object to giving evidence as to any premises inspected by him in the course of his duty. R.S.O. 1950, c. 126, s. 22.

Notice to
be affixed
in factory

24.—(1) There shall be affixed by an inspector at the entrance of a factory and in such other convenient parts of every factory, shop, bakeshop, restaurant and office building as he directs, and it is the duty of the employer to see that all such notices are constantly kept so affixed in the form directed and in such position as to be easily read by the persons employed,

- (a)** such notices of the provisions of this Part and of any regulations as the inspector deems necessary to enable the persons employed to become acquainted with their rights, liabilities and duties under this Part;
- (b)** a notice of the name and address of the inspector;
- (c)** in the case of a factory, a notice of the clock, if any, by which the period of employment and times for meals in the factory are regulated;
- (d)** every other notice and document required by this Part to be so affixed.

Offence

(2) In the event of a contravention of any provision or requirement of this section, the employer is guilty of an offence and on summary conviction is liable to a fine of not more than \$20, and every person who pulls down, alters or defaces any

such notice is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1950, c. 126, s. 23.

25.—(1) Any notice, order, requisition, summons or document required or authorized to be served or sent for the purposes of this Part may be served or sent by delivering it to or at the residence of the person on or to whom it is to be served or sent, or where that person is an employer, by delivering it, or a true copy thereof, to his agent or to some person in the factory, shop, bakeshop, restaurant or office building of which he is employer. Notices,
etc.,
mode of
service

(2) Such notice, order, requisition, summons or document may also be served or sent by mail and, if so served or sent, shall be deemed to have been served and received respectively at the time when the letter containing it would be delivered in the ordinary course of mail, and in proving such service or sending it is sufficient to prove that it was properly addressed and mailed, and where it is required to be served on or sent to an employer, it shall be deemed to be properly addressed if addressed to the factory, shop, bakeshop, restaurant or office building in respect of which he is employer, with the addition of the proper postal address, but without naming the employer. Idem
R.S.O. 1950, c. 126, s. 24.

EMPLOYMENT

26. No child shall be employed in a factory, shop, bakeshop, restaurant or office building. R.S.O. 1950, c. 126, s. 25. Employ-
ment of
children

27. The Lieutenant Governor in Council may prohibit the employment of youths and young girls in factories in which he deems the work dangerous or unwholesome. R.S.O. 1950, c. 126, s. 26. Prohibiting
employment
of young
girls and
youths

28. No person under sixteen years of age shall be employed in a factory, shop, bakeshop, restaurant or office building during school hours unless such person has furnished to the employer a certificate issued in accordance with *The Schools Administration Act* permitting the absence of such person from school, and the certificate shall be kept on file by the employer and produced whenever called for by an inspector. Employ-
ment of
adolescents
R.S.O. 1960,
o. 361
R.S.O. 1950, c. 126, s. 27.

29.—(1) In all rooms of a shop in which young girls or women are employed the employer shall at all times provide and keep a sufficient number of chairs or seats suitably placed for the use of every such young girl or woman, and shall permit her to use such chairs or seats when not necessarily engaged in the work or duty for which she is employed, and Seats to be
provided
for female
employees
in shops

the employer shall not by any open or covert threat, rule or other intimation, expressed or implied, or by any contrivance, prevent any female employee from using such chairs or seats.

Supplying
seats for
female
employees
in factories
and offices

(2) Where in the opinion of the inspector the whole or a substantial portion of the work upon which female employees are engaged in a department of a factory or office in which women or young girls are employed can be efficiently performed while such female employees are seated, the employer shall provide such chairs or seats as are directed in writing by the chief inspector.

Offence

(3) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$25. R.S.O. 1950, c. 126, s. 28.

Hours of
employment

30. Except as provided in sections 31, 32 and 33, in a factory, shop, bakeshop or restaurant,

- (a) no youth, young girl or woman shall be employed for more than ten hours in one day, nor shall any such person be so employed for more than sixty hours in any one week;
- (b) the hours of labour for any such person in any one day shall not be earlier than 7 o'clock in the forenoon or later than 6.30 o'clock in the afternoon in a factory or 11 o'clock in the afternoon in a shop or restaurant unless a special permit in writing is obtained from the inspector;
- (c) no youth, young girl or woman who has been previously on any day employed in a factory, shop or restaurant for the number of hours permitted by this Part shall, to the knowledge of the employer, be employed on the same day in any other factory, shop or restaurant, and no such person who has been so employed in a factory, shop or restaurant for less than such number of hours shall be employed in any other factory, shop or restaurant on the same day for a longer period than will complete such number of hours;
- (d) the employer shall allow every youth, young girl or woman not less than one hour at noon of each day for meals, and such hour shall not be counted as part of the time herein limited for the employment of any such person. R.S.O. 1950, c. 126, s. 29; 1953, c. 35, s. 4.

Exemption
by Inspector

31.—(1) Subject to the regulations, where,

- (a) an accident that prevents the working of a factory happens to the motive power; or

- (b) from any other occurrence beyond the control of the employer the machinery, or any part of the machinery, of a factory cannot be regularly worked; or
- (c) the customs or exigencies of trade require that the youths, young girls or women working in a factory, or in certain processes in a factory, shall be employed for longer than the prescribed period,

an inspector may, on proof to his satisfaction of such accident, occurrence, custom, or exigency of trade, give permission in writing for such exemption from the observance of the foregoing provisions as will, in his judgment, fairly and equitably to the employers of, and to the youths, young girls and women in such factory, make up for any loss of labour from such accident or occurrence or meet the requirements of such custom or exigency of trade.

- (2) If an inspector permits such exemption,

Hours of
employment
during
period of
exemption

- (a) no youth, young girl or woman shall be employed before the hour of 6 o'clock in the forenoon nor after the hour of 9 o'clock in the afternoon;
- (b) the hours of labour for youths, young girls and women shall not be more than twelve and one-half in any one day nor more than seventy-two and one-half in any one week;
- (c) such exemption shall not comprise more than thirty-six days in the whole in any twelve months, and in reckoning such period of thirty-six days every day on which the youth, young girl or woman has been employed overtime shall be taken into account;
- (d) during the continuance of such exemption, in addition to the hour for the noonday meal, there shall be allowed to every youth, young girl or woman so employed in the factory on any day to an hour later than 7 o'clock in the afternoon not less than forty-five minutes for another meal between 5 o'clock and 8 o'clock in the afternoon; and
- (e) in every factory with respect to which any such permission for exemption is given there shall, in compliance with section 24, be affixed a notice specifying the extent and particulars of the exemption.

R.S.O. 1950, c. 126, s. 30.

32.—(1) Notwithstanding anything in this Part, the chief ^{Double shift} inspector may grant a permit authorizing the operation of a factory by a double shift, but the hours of labour shall not exceed eight hours for each shift nor be more than sixteen hours for both shifts and such double shift shall be between the hours of 6 o'clock in the forenoon and 11 o'clock in the afternoon.

Time for
meal

(2) Where an employer operates a double shift, every youth, young girl and woman shall be allowed not less than one hour for a noon-day meal or evening meal, as the case may be, and the time for the noon-day meal shall be between 10 o'clock in the forenoon and 12 o'clock noon and for the evening meal between 6 o'clock and 8 o'clock in the afternoon. R.S.O. 1950, c. 126, s. 31.

Approval of
Minister re
employment
of women,
etc.

33. Notwithstanding anything in this Part, the Minister may, where he is satisfied that the health, welfare and safety of youths, young girls or women will not be adversely affected or endangered, grant permission upon such conditions as he determines for their employment during hours other than those prescribed under this Act. 1953, c. 35, s. 5.

Payment
for
overtime

34. Where a youth, young girl or woman works beyond the maximum number of hours in any one day or in any one week provided in this Part, and whether an inspector has permitted exemption or not, the youth, young girl or woman is entitled to be paid wages for such overtime, and The Industry and Labour Board has the right to establish a rate of wage for all such overtime worked in any one day or in any one week. R.S.O. 1950, c. 126, s. 32.

Notice of
hours of
employment
to be affixed
in factory

35. Notice of the hours between which youths, young girls or women may be employed in a factory shall be in such form as is prescribed by the regulations, and shall be signed by an inspector and by the employer, and shall be posted up during the period covered by the notice in such conspicuous place or places in the factory as the inspector requires. R.S.O. 1950, c. 126, s. 33.

Require-
ments re
eating and
food

36.—(1) If an inspector so directs in writing, the employer in a factory or shop shall prohibit persons from taking meals in any room in which a manufacturing process is being carried on.

Idem

(2) If thirty-five or more females are employed, or if an inspector so directs in writing, the employer in a factory or shop shall provide a room, together with the necessary equipment, in the factory or shop or the precincts thereof, satisfactory to the inspector, for the purposes of an eating room for persons employed in the factory or shop, and no part of the expense of providing such room and equipment shall be payable by or chargeable to the wages of the employees.

Idem

(3) No person shall take or be allowed to take food into a room in a factory or shop where paint, varnish, dye, white lead, arsenic or any other poisonous substance is exposed, or where deleterious fumes, dust or gases are known to be present, and drinking water in any such room shall be taken

directly from a tap or suitably closed receptacle. R.S.O. 1950, c. 126, s. 34.

37. Where a youth, young girl or woman is employed in a factory, shop or restaurant in which there is a contravention of any of the provisions of section 30 or 31, such youth, young girl or woman shall be deemed to be unlawfully employed and so that his or her health is likely to be injured. R.S.O. 1950, c. 126, s. 35.

Unlawful employment in contravention of ss. 30, 31

38.—(1) In this section, "camp" means a shelter provided for the lodging of six or more persons employed in gainful occupation for a temporary purpose and for a period not exceeding six months.

Interpretation

(2) No person shall contract for the employment of, or employ, young girls or women in any occupation if during their employment they would lodge in a camp, unless and until a permit has been obtained from the chief inspector authorizing such employment.

Permit to employ women

(3) Every such permit shall be conditional upon compliance with the regulations made under this section, and the chief inspector may cancel or suspend any such permit for non-compliance with any such regulation.

Condition of permit

(4) The Lieutenant Governor in Council may make regulations respecting,

Regulations

- (a) the sanitary and other conditions to be observed in a camp;
- (b) the season during which employment in a camp may be permitted and the hours of labour of young girls and women;
- (c) the proper supervision of a camp, including physical and moral protection for young girls and women employed therein and the appointment and duties of a suitable matron and female superintendent in a camp;
- (d) the location, drainage and arrangement of a camp, the materials to be used and the class of buildings or other shelter to be provided;
- (e) the provision of a healthful and suitable supply of food and pure water and the conditions under which the food shall be prepared and served in a camp;
- (f) the washing facilities, bedding and flooring to be provided in a camp.

(5) Every person who employs young girls or women in a camp without the permit required by subsection 2 or who re-

Offence

fuses or neglects to comply with any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. R.S.O. 1950, c. 126, s. 36, *amended*.

HEALTH AND SAFETY

Lighting
buildings

39.—(1) The employer in a factory, shop, bakeshop, restaurant or office building shall, during working hours, keep the factory, shop, bakeshop, restaurant or office building, including all passages and sanitary conveniences used in connection therewith and under his control, properly lighted and heated so as not to be injurious to the health, safety and comfort of the employees, and the owner of a building used as a factory, shop, bakeshop, restaurant, or office building shall at all times keep it or such parts thereof as are under his control or are used in common by the tenants or occupants of the building, properly lighted and heated so as not to be injurious to the health, safety and comfort of persons employed in the building or using or having access to the same.

Offence

(2) Every owner or employer who for thirty days or for such extended period as the inspector allows, refuses or neglects to comply with the requirements of this section after being notified in writing with regard to the same by an inspector, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200. R.S.O. 1950, c. 126, s. 37, *amended*.

Rest rooms
and
matrons

40.—(1) In a factory, shop, bakeshop, restaurant or office, the employer shall provide,

- (a) where ten or more females are employed, a rest room or other space affording reasonable privacy, together with one or more couches or cots, and chairs, satisfactory to an inspector; and
- (b) where thirty-five or more females are employed, or where deemed necessary by an inspector, a matron or female supervisor to have charge of the welfare of the female employees.

Exceptions

(2) Subsection 1 or any part thereof does not apply to a case where, owing to the nature of the occupation or for other reasons, the chief inspector dispenses with compliance therewith in writing signed by him.

Effect of
non-
compliance

(3) Every factory or shop in which the employer neglects to comply with this section after notice in writing from an inspector shall be deemed to be kept so that the health of the employees is endangered. R.S.O. 1950, c. 126, s. 38.

Conveni-
ences for
employees

41.—(1) The owner of a building used as a factory, shop, bakeshop, restaurant or office building shall,

- (a) provide toilet rooms for male and female employees with separate approaches thereto and clearly painted signs indicating for which sex the toilet rooms are provided, and such toilet rooms shall be equipped with one water-closet and one urinal for every twenty-five male employees and one water-closet for every fifteen female employees and every water-closet shall be separated from the others by partitions, but where a municipal water supply is not available sanitary privies, chemical or other type of closets satisfactory to the inspector may be substituted for water-closets;
- (b) provide separate wash rooms for male and female employees with separate approaches thereto and clearly painted signs indicating for which sex the rooms are provided and they shall be equipped with wash basins or equivalent washing facilities satisfactory to an inspector, connected to a source of hot and cold water with one wash basin or the equivalent for every fifteen employees;
- (c) be responsible for the remedying of any effluvia arising from any drain or defective plumbing and for any repairs required to keep the building in a safe and habitable condition;
- (d) arrange for a supply of pure drinking water available for each occupier.

(2) The Lieutenant Governor in Council may prescribe such additional regulations with respect to such conveniences as is deemed proper. Regulations

(3) The owner of a factory, shop, bakeshop, restaurant or office building who for thirty days, or such extended period as an inspector in writing allows, refuses or neglects to comply with subsection 1 or the regulations made under this section after being notified in writing in regard to the same by an inspector, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200. Offence
R.S.O. 1950, c. 126, s. 39, *amended*.

42. A factory, shop, bakeshop, restaurant or office building in which a contravention of the regulations made by The Hydro-Electric Power Commission of Ontario under *The Power Commission Act* occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered. Contra-
vention of
Ontario
Hydro
regulations
R.S.O. 1960,
c. 300
R.S.O. 1950, c. 126, s. 40.

43.—(1) The employer of a factory, shop, bakeshop or restaurant shall, Sanitary
require-
ments

- (a) keep it in a clean and sanitary condition and free

from any effluvia arising from refuse of any kind, and remove, at least daily, by a suitable method, all accumulations of dirt and refuse from the floors, work tables, passages and stairways, and keep all windows and skylights, as far as practicable, clean on both the inner and outer surfaces and free from obstructions;

- (b) keep toilet rooms and washrooms, water-closets, urinals or other sanitary conveniences in good repair and in a sanitary condition, and keep closets separated for male and female employees and provide conveniences to the satisfaction of an inspector for the employees using them;
- (c) heat the premises throughout and regulate the temperature so as to be suitable for the work to be performed therein and not to be injurious to the health or comfort of the employees, but in no case shall the temperature be less than 68° F. unless authorized by an inspector in writing;
- (d) ventilate the premises in such a manner as to keep the air reasonably pure and so as to render harmless, as far as reasonably practicable, all gases, vapours, dust or other impurities generated in the course of any manufacturing process or handicraft carried on therein that may be injurious to health;
- (e) not allow overcrowding while work is carried on therein so as to be injurious to the health of the persons employed therein, the standard to be allowed being three hundred cubic feet of room space for each employee;
- (f) provide and maintain for the use of the employees a convenient and sufficient supply of individual clean towels, soap, toilet paper and in each toilet room used by females a suitable covered receptacle;
- (g) if the manufacturing process carried on in any part of the premises renders the floor liable to be wet to such an extent that the health of a person employed therein is likely to be endangered, see that adequate means are provided for the proper draining of such floors;
- (h) provide a satisfactory supply of safe drinking water and such supply of drinking water shall be, when not taken directly from a water-pipe, contained in a suitable covered vessel having a drain faucet, and shall be renewed at least daily, and the employer shall

provide, except when the water is delivered in an upward jet from which the employees can conveniently drink, a sufficient supply of individual drinking cups, and the faucet or jet for such drinking water shall be at least eight feet distant from any closet or urinal; and

- (i) provide suitable accommodation for clothing not worn by employees during working hours and for work clothes that must be dried or be cleaned or be kept separate from street clothes due to the presence of poisonous, infectious or irritating materials.

(2) The employer in a foundry or other factory wherein the health of the employees, in the opinion of an inspector, is likely to be endangered by the presence of poisonous, irritating or infectious materials or gases or by extremes of temperature or humidity shall provide such shower baths and wash basins, in addition to those required under section 41, supplied with sufficient hot and cold water as the inspector deems necessary. Showers and wash-basins

(3) In a factory or shop where a process is carried on by which dust is generated and is inhaled by the workers to an injurious extent, then subject to the regulations, an inspector may, if such inhalation can be prevented or partially prevented by mechanical means, direct that such means be provided within a reasonable time by the employer who shall so provide them. Dust

(4) Where grinding, polishing or buffing is carried on in a factory or shop, subsection 3 applies irrespective of the number of persons employed therein. Grinding, polishing or buffing

(5) No employer shall knowingly permit or suffer any person to work in a factory or shop in which food or food products or materials are manufactured, stored or kept for sale or sold or in a restaurant who is affected with pulmonary tuberculosis, scrofula, any venereal disease or any communicable skin disease, and every employer shall keep himself and his employees in a reasonably healthy condition. R.S.O. 1950, c. 126, s. 41 (1-5). Employment of persons affected with disease

(6) Every employer in a factory, shop or restaurant who for thirty days refuses or neglects to comply with the requirements of this section or with the regulations made under this section after being notified in writing in regard to the same by an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200. R.S.O. 1950, c. 126, s. 41 (6), *amended*. Offence

(7) The Lieutenant Governor in Council may make regulations requiring the employer in a factory, shop, bakeshop, Regulations re first aid facilities

restaurant or office to provide at his own expense a suitable room or rooms with adequate equipment and supplies for rendering first aid in accidents and sickness and for the supervision of the general health of the employees during working hours. R.S.O. 1950, c. 126, s. 41 (7).

Sanitary requirements,
etc., in
offices

44.—(1) The employer in an office shall,

- (a) ensure that the office is kept in a clean and sanitary condition and properly ventilated, heated and lighted so as not to be injurious to the health or comfort of the persons employed therein;
- (b) not allow overcrowding so as to be injurious to the health of the persons employed therein;
- (c) provide and maintain for the use of persons employed therein the conveniences indicated in clauses *f* and *h* of subsection 1 of section 43.

in office
buildings

(2) Where in an office building the water-closets, urinals or other conveniences are not situate in that part of the building occupied by and under the control of an employer, it is the duty of the owner, and where such conveniences are situate in that part of the building occupied by and under the control of a separate employer, it is the duty of such employer to keep the same in good repair and in a sanitary condition.

Idem

(3) The owner of an office building shall at all times keep it or such parts thereof as are used in common by the tenants or occupants thereof and are under his control in a clean and sanitary condition and so as not to be injurious to the health of persons employed in the building or using or having access to the same. R.S.O. 1950, c. 126, s. 42 (1-3).

Offence

(4) Every owner or employer who, for thirty days or for such extended period as an inspector allows, refuses or neglects to comply with the requirements of this section after being notified in writing in regard to the same by an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200. R.S.O. 1950, c. 126, s. 42 (4), *amended*.

Recovery by
owner from
tenant of
expenditures

45. Where an owner is required under this Part to do anything that as between him and his tenant it is not his but the tenant's duty to do, he is entitled to recover from the tenant the amount of any expenditure incurred in doing it. R.S.O. 1950, c. 126, s. 43.

Restrictions
as to sleep-
ing place

46.—(1) No part of a factory shall be kept or used as a bedroom or sleeping place without the written consent of an inspector. R.S.O. 1950, c. 126, s. 44.

(2) Subsection 1 does not apply to a laundry in which not more than five persons are employed. R.S.O. 1950, c. 126, s. 45. Exception as to laundries

47.—(1) No public laundry work shall be done in a room used as a sleeping or living room or in a room used for cooking or preparing meals. R.S.O. 1950, c. 126, s. 46. Laundry work not to be done in sleeping or living room

(2) Subsection 1 does not apply to a female engaged in doing custom laundry work in her home for a regular family trade. R.S.O. 1950, c. 126, s. 47. Certain laundresses excepted

48. A stable or garage shall not be kept or used under the same roof as a factory or bakeshop unless there is between the stable or garage and the factory or bakeshop a sufficient brick or other partition wall separating the one from the other approved by an inspector. R.S.O. 1950, c. 126, s. 48. Restrictions as to stables

49.—(1) In this section,

Interpretation

(a) "employer" means a person who in his trade or business in personal or household articles gives employment to homeworkers;

(b) "employment" means the performance by a homeworker for wages of any work or service in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any personal or household article or any part thereof;

(c) "homeworker" means a person who for wages in his home or elsewhere in premises in his occupation and not occupied by the employer engages in employment in respect to personal or household articles;

(d) "personal or household article" means a garment, suit, clothing, wearing apparel or other article of personal dress or attire, and any article of domestic household use, and includes any materials and substances therefor;

(e) "wages" means wages within the meaning of *The Minimum Wage Act*. R.S.O. 1960, c. 240

(2) An employer who gives employment to a homeworker and the homeworker shall obtain a permit from an inspector, and no employer or homeworker shall give or be engaged in employment in connection with personal or household articles without such a permit. Permit for employment of homeworker

(3) An employer and a homeworker who require a permit shall apply therefor in writing to an inspector upon the form approved for the purpose by the Minister, and shall furnish such information and proofs as the form prescribes. Application for permit

Scope of permit

(4) Every such permit shall specify the purposes and the scope of authority granted thereby, which may be enlarged at any time by endorsement thereon signed by an inspector.

Forms

(5) The applications for permits and the permits to be issued thereunder shall be in two separate forms, the one for employers' permits and the other for homeworkers' permits.

Who may obtain permit
R.S.O. 1960,
c. 240

(6) No employer's permit shall be issued to a person unless an inspector is satisfied that he is likely to comply with this Act and *The Minimum Wage Act*, and no homeworke's permit shall be issued to a person unless an inspector is satisfied that he in respect to health, and his home or other premises in respect to sanitation, are fit for the purposes of employment in respect to personal or household articles.

Conditions of employment

(7) No employer or homeworke shall in respect to personal or household articles,

- (a) give or be engaged in employment unless the employer has an employer's permit and the homeworke has a homeworke's permit, and such permits are not cancelled;
- (b) give or be engaged in employment beyond the purposes and scope of authority of the permit of the employer or homeworke;
- (c) give or be engaged in employment at wages less than those established by The Industry and Labour Board for the employment.

Employer's register

(8) An employer shall keep a written register open to an inspector and in a form satisfactory to him in which the employer shall record the name, address and permit number of every homeworke to whom he gives employment, particulars of the personal or household articles given to his employment, and the dates and times of such employment and the wages paid therefor.

Inspection of register and premises of employer

(9) An inspector may at any time enter the premises of an employer to inspect the register of homeworkers' employment, and any personal or household article to be given to or which has been returned by a homeworke.

Inspection of premises of homeworkers

(10) An inspector may at any reasonable hour enter the home or other premises of a homeworke to inspect the same and the sanitation thereof, and any personal or household article therein given to him for employment.

Impounding articles for protection of public health

(11) An inspector may at any time seize and impound any personal or household article in the possession of any employer or homeworke, or in the possession of any other person in his trade or business if such article in the opinion

of the inspector may affect or be injurious to the public health by reason of some unsanitary condition or communicable disease having existed in the home or other premises of a homeworker while the article was in his possession, and every article so impounded shall forthwith be delivered by the inspector to the local medical officer of health or sanitary inspector for disinfection or destruction.

(12) The medical officer of health or sanitary inspector to whom an impounded personal or household article is delivered by an inspector shall cause it to be disinfected and, if in the opinion of the medical officer of health disinfection may not be sufficient to protect the public health, he may direct that the article be destroyed.

Disinfection
or destruction
of
impounded
articles

(13) Any personal or household article that has been impounded and disinfected shall be returned to the person from whose possession it was taken upon payment of the expense of impounding and disinfection, and if any personal or household article is directed by the medical officer of health to be destroyed, no claim for compensation for the destruction or loss of such article shall be made or arise.

Return of
articles

(14) No person shall knowingly sell, expose for sale or otherwise deal in any personal or household article in respect to which there has been a contravention of this Part or the regulations.

Prohibition
as to sale of
articles

(15) An inspector may at any time cancel an employer's or homeworker's permit for any contravention of this Part or the regulations, or of *The Minimum Wage Act* or regulations or order thereunder, and may cancel a homeworker's permit if, in his opinion, the health of the homeworker or the state of sanitation of his home or other premises used by him are likely to be injurious to the public health, or if any communicable disease exists in such home or other premises. R.S.O. 1950, c. 126, s. 49.

Cancellation
of permits
R.S.O. 1960,
c. 240

50.—(1) Young girls and women in a factory shall during working hours wear a close-fitting cap or other suitable headgear that entirely confines their hair so as to avoid contact with machinery, shafting, belting or any material being handled.

Female
employees
to wear
caps

(2) The manager, superintendent, foreman or other person in charge shall ensure that employees are fully notified of the provisions of subsection 1. R.S.O. 1950, c. 126, s. 50.

Notification

51.—(1) No youth, young girl or woman shall be allowed by the employer of a factory, shop or bakeshop,

(a) to clean any part of the machinery in a factory that is mill-gearing while the machinery is in motion;

Youths,
young girls
and women
around
dangerous
machinery

- (b) to work between the fixed and traversing part of any self-acting machine while the machine is in motion;
- (c) to work at any machine without first having received adequate instruction upon its operation and any dangers connected therewith; or
- (d) to work at any machine without adequate supervision by a person having thorough knowledge of and experience with the machine.

**Contra-
vention**

(2) Any factory, shop or bakeshop in which a youth, young girl or woman is allowed to clean or work in contravention of subsection 1 shall be deemed to be kept so that the safety of persons employed therein is endangered. R.S.O. 1950, c. 126, s. 51.

**Intoxicated
persons**

52. No person under the influence of or having in his possession any intoxicating liquor shall enter or be in any factory. R.S.O. 1950, c. 126, s. 52.

**Protection
of
employees,
etc.**

53.—(1) Where an inspector considers that any place, matter or thing, or any part or parts thereof, in a factory, shop, bakeshop, restaurant, office or office building is a source of danger to the health or safety,

- (a) of persons employed therein; or
- (b) of persons having access thereto,

he shall give notice in writing to the employer or owner directing him immediately, or within such period as the inspector specifies,

- (c) to take measures for guarding the place, matter or thing; or
- (d) to protect the safety or health of any person against danger therefrom,

as the inspector considers necessary and, upon failure to comply with the inspector's direction as specified, the use of the place, matter or thing, or any part or parts thereof, shall be discontinued immediately until the direction has been complied with.

**Notice of
inspector's
direction**

(2) Where an inspector gives a direction under subsection 1, he may affix to the place, matter or thing, or any part or parts thereof, a notice in the prescribed form and no person, except an inspector, shall remove such notice unless authorized by an inspector.

**Failure to
comply with
inspector's
direction**

(3) Any factory, shop, bakeshop, restaurant, office or office building in which the employer or owner fails to comply with an inspector's direction or in which the employer or owner permits, or fails to prevent, any place, matter or thing, or any part or parts thereof, to be used in contravention of this sec-

tion shall be deemed to be kept so that the safety of the persons employed therein is endangered. 1957, c. 32, s. 4.

54.—(1) Where any mill-gearing, machinery, appliance, place, matter or thing, or part or parts thereof, in a factory, shop, bakeshop, restaurant, office or office building is dangerous to any person, it shall be safely fenced or guarded unless its position, construction or attachment assures protection. R.S.O. 1950, c. 126, s. 54 (1); 1957, c. 32, s. 5 (1). Dangerous places to be fenced or guarded

(2) Where any dangerous machinery, or part or parts thereof, cannot be safely fenced or guarded, the requirements of subsection 1 shall be deemed to have been complied with if the machinery is provided with a safety device which automatically prevents a person operating it from coming into contact with any dangerous part. Safety devices

(3) Not more than one person shall work within reach of any guillotine-knife, shears, press dies, in-running rolls or any similar device. Shears, etc.

(4) Where an inspector has given notice in writing to an employer, no machinery other than steam engines shall be cleaned while in motion. Cleaning machinery

(5) No person shall be allowed to enter a tank, chamber, pit, pipe, flue or other confined space in which dangerous fumes, dusts or extreme temperatures are liable to be present in a factory unless, Dangerous fumes; extreme temperatures

(a) such confined space has a manhole or other means to easy egress and has been thoroughly ventilated and tested to be safe for entry;

(b) such person is wearing suitable breathing apparatus and a belt to which there is securely attached a rope the free end of which is held by a person outside the confined space;

(c) when deemed necessary by the inspector, there is conveniently available suitable reviving apparatus and a person trained in the operation thereof,

and the belt, rope and other apparatus that is used for such purpose shall be periodically inspected by the employer and maintained in good working order. R.S.O. 1950, c. 126, s. 54 (2-5).

(6) A factory, shop, bakeshop, restaurant, office or office building in which a contravention of this section occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered. R.S.O. 1950, c. 126, s. 54 (6); 1957, c. 32, s. 5 (2), *revised*. Contra-vention

Storage of
coal oil, etc.

55.—(1) Where coal oil, petroleum, benzine, naphtha, gasoline or any explosive or any combustible or flammable material is kept or stored in a factory or shop, it shall be kept stored when not in actual use in a building separate from the other parts of the factory or shop or in a fireproof compartment of the factory or shop that has been approved by an inspector.

Other
flammable
material and
maximum
dealt with
by
regulations

(2) The Lieutenant Governor in Council may add to the articles mentioned in subsection 1 any flammable or combustible material to which he deems it expedient that the provisions of subsection 1 should apply, and he may also prescribe the maximum quantity of any of the articles mentioned in subsection 1 or in the regulations that may at any time be in actual use in the factory or shop.

Contra-
vention

(3) A factory or shop in which a contravention of this section or any regulation made under this section occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered. R.S.O. 1950, c. 126, s. 55.

Regulations
re benzol,
etc.

56.—(1) Regulations may be made by the Lieutenant Governor in Council for the protection of persons engaged in any industrial process involving the use or manufacture of benzol, or of any other poisons, or of any dangerous or harmful substances, or of their preparations or compounds,

- (a) prescribing the conditions under which such poisons or substances may be used or manufactured and the labelling of the containers;
- (b) respecting the posting of printed forms setting forth the dangers and safety precautions;
- (c) requiring manufacturers, distributors and others to provide accurate information regarding the percentage of poisonous, dangerous or harmful constituents;
- (d) providing for the periodic medical examination by qualified physicians of employees engaged in such industrial processes and the reports to be made of such examinations;
- (e) respecting the payment of fees for medical examinations;
- (f) respecting the reporting by employers, doctors and others of cases of affection from dangerous or harmful substances or industrial poisoning;
- (g) generally, governing such matters as may be deemed advisable for the protection of such persons.

Contra-
vention

(2) A factory or shop in which a contravention of any regulation made under this section occurs shall be deemed to be

kept so that the safety of the persons employed therein is endangered. R.S.O. 1950, c. 126, s. 56, *revised*.

57. Where a boiler of pressure vessel in a factory, shop, bakeshop, restaurant or office building is constructed, installed, maintained or operated in a manner contrary to *The Boilers and Pressure Vessels Act*, such construction, installation, maintenance or operation shall for the purposes of this Part be deemed to endanger the safety of the persons employed therein. 1960, c. 34, s. 2.

Boilers and
pressure
vessels

R.S.O. 1960,
c. 37

58. Where an elevator, dumb-waiter, escalator, manlift or incline lift in a factory, shop, bakeshop, restaurant or office building is installed, maintained or operated in a manner contrary to *The Elevators and Lifts Act* such installation, maintenance or operation shall for the purposes of this Part be deemed to endanger the safety of the persons employed therein. 1953, c. 35, s. 6.

Elevators,
etc.

R.S.O. 1960,
c. 119

59.—(1) In a factory, shop, bakeshop, restaurant and office building,

Fire
prevention
and
protection

- (a) the owner or employer shall provide such equipment, facilities and other means for the prevention and extinguishment of and protection from fire as the chief inspector deems necessary in the circumstances and direct such owner or employer in writing to provide; and
- (b) the owner shall provide such means of egress convenient to and having easy communication with all working rooms as the chief inspector deems necessary including,
 - (i) such tower stairways of fire-resistive construction equipped with fire doors approved by the chief inspector at each storey including the basement, as the chief inspector directs,
 - (ii) such metal or other non-flammable fire escapes consisting of stairways, with railings, attached to the outside of the building and with landings at each storey connecting directly with the interior of the building through metal or other fire-resistive doors or casement windows, as the chief inspector directs, and
 - (iii) such lighting facilities and legible signs to facilitate egress as the chief inspector directs; and
- (c) the chief inspector may authorize any person to exercise his powers and duties under this section and any approval or direction given by such person shall be deemed to have been approved or given by the

chief inspector. R.S.O. 1950, c. 126, s. 59 (1); 1957, c. 32, s. 6.

Doors to
open
outward

(2) In a factory, shop, bakeshop, restaurant and office building,

(a) where more than fifteen persons are employed at any time; or

(b) where in the opinion of the inspector the nature of the business carried on or the number of persons present at any time, other than employees, may endanger the safety of the employees,

every door for the use of the employees or other persons shall open in the direction of exit travel.

Doors to be
unob-
structed

(3) No door leading to the outside or to any passageway, tower stairway or fire escape shall be obstructed, bolted, barred or locked during any time that employees or other persons are in the building. 1960, c. 34, s. 3.

Extent of
outside
fire escapes

(4) No outside fire escape shall extend above the third floor of a factory, shop, restaurant or office building erected after the 1st day of July 1952, and the ground floor shall be considered the first floor. 1952, c. 30, s. 1.

Regulations

(5) The Lieutenant Governor in Council may make regulations for the more effectual carrying out of the provisions of this section and for the adoption of any system of fire escape in substitution for those above mentioned. R.S.O. 1950, c. 126, s. 59 (4).

Offence

(6) The owner or proprietor of a factory, shop, restaurant or office building refusing or neglecting to provide the means of safe exit in case of fire prescribed in this section or by the regulations made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200. R.S.O. 1950, c. 126, s. 59 (5), *amended*.

Contra-
vention

(7) A factory, shop, restaurant or office building in which a contravention of this section or of a regulation made under this section occurs shall be deemed to be kept so that the safety of persons employed therein is endangered. R.S.O. 1950, c. 126, s. 59 (6).

Notice of
accident to
be given to
inspector

60. Where a fire, accident or industrial disease in a factory, shop, bakeshop, restaurant or office building occasions any bodily injury to a person employed therein whereby he is prevented from working for more than six days, a notice in the prescribed form shall be sent to the chief inspector by the employer forthwith after the expiration of such six days, and, if such notice is not so sent, the employer is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$30. R.S.O. 1950, c. 126, s. 60.

61. Where an explosion occurs in a factory, shop, bakeshop, restaurant or office building, whether a person is injured thereby or not, the fact of such explosion having occurred shall be reported to the chief inspector in writing by the employer in the prescribed form within twenty-four hours after the explosion took place, and, if such notice is not so sent, the employer is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$30. R.S.O. 1950, c. 126, s. 61.

Notice of explosion

62. Where in a factory, shop, bakeshop, restaurant or office building a person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, written notice of the accident in the prescribed form shall be sent to the chief inspector within twenty-four hours after the occurrence thereof, and, if such notice is not so sent, the employer is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$30. R.S.O. 1950, c. 126, s. 62.

Notification of death or fatal injury

63.—(1) A bakeshop shall be constructed and maintained as to lighting, heating, ventilation and drainage in such a manner as not to be dangerous or injurious to the health of any person working therein, and shall be kept at all times in a clean and sanitary condition, and so as to secure the manufacture and preservation of all food products and materials therein in a good and wholesome condition. R.S.O. 1950, c. 126, s. 63.

Bakeshops; construction, lighting, heating, ventilation and drainage

(2) A bakeshop that is not within the provisions of this Part relating to factories or shops shall be provided with a proper washroom and a sufficient supply of clean towels and soap and a closet and other conveniences for the health and comfort of the persons employed therein and the washroom, closet and other conveniences shall be separate from the bakeshop and shall be kept clean and in a sanitary condition. R.S.O. 1950, c. 126, s. 64.

Washroom, towels, soap and closet

(3) No person shall keep a bakeshop in any part of a building where the floor of the bakeshop is below the level of the street or road upon which the building is situate or is below the level of any ground abutting the building unless,

Bakeshops below ground level

- (a) the drawings and specifications of the construction or reconstruction of or alterations to the building to be used as the bakeshop, notwithstanding its height in storeys or gross horizontal area, have been submitted to, and approved by, an engineer of the Department under section 13; and
- (b) such construction, reconstruction or alterations have been proceeded with only in accordance with the

drawings and specifications as so approved. 1960, c. 34, s. 4.

Application (4) Subsection 3 does not apply to any bakeshop established before the 6th day of May, 1913. R.S.O. 1950, c. 126, s. 65 (2).

Sleeping places to be separate (5) The sleeping places of the employees of a bakeshop shall be separate from the bakeshop, and no person shall sleep in a bakeshop. R.S.O. 1950, c. 126, s. 66.

Health and hours of labour (6) Subsection 5 of section 43 and section 65 apply to every bakeshop whether it is or is not a factory or shop within the provisions of this Part relating to factories and shops. R.S.O. 1950, c. 126, s. 67.

Fire escapes (7) Every bakeshop, not being a factory or shop to which section 59 applies, shall be provided with proper means and facilities of escape in case of fire to the satisfaction of an inspector. R.S.O. 1950, c. 126, s. 68.

Sale of bread, etc., manufactured out of Ontario **64.** No person shall sell, expose or offer for sale bread or buns manufactured out of Ontario without the written permission of an inspector. R.S.O. 1950, c. 126, s. 69.

Hours of labour in bakeshops **65.**—(1) Except with the written permission of an inspector, no person shall require, permit or suffer adult male employees to work in a bakeshop for more than fifty-six hours in a calendar week and a copy of such permission shall be posted up in a conspicuous place in the bakeshop, but permission shall not be required for overtime work on the Friday of any week where a statutory or civic holiday occurs on the following Monday.

Hours of work on Sunday (2) No person shall require, permit or suffer any adult male employee to work in a bakeshop on Sunday between the hours of 7 o'clock in the forenoon and 1 o'clock in the afternoon except for the purpose of performing preliminary work, including kindling of fires, fermentation process, preparation of doughs and sponges necessary for the scaling and baking of bread.

Exceptions as to Sunday work (3) Subsection 2 does not apply to employees whose daily period of employment does not exceed eight hours between 7 o'clock in the forenoon and 6 o'clock in the afternoon and who regularly receive at least twenty-four consecutive hours rest period during each calendar week.

Hours of rest (4) An employee who works for more than nine hours during any one work period or during any twenty-four consecutive hours, except in a case covered by a special permit, shall be given at least twenty-four consecutive hours rest period before commencing the next daily work period. R.S.O. 1950, c. 126, s. 70.

66.—(1) No person shall keep a factory, shop, bakeshop, restaurant or office building so that the safety of persons employed therein is endangered, or so that the health of the persons employed therein is likely to be injured, and every person who so keeps a factory, shop, bakeshop, restaurant or office building is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for a term of not more than twelve months. R.S.O. 1950, c. 126, s. 71 (1) *amended*. Premises dangerous to health or safety

(2) The enumeration in this Part of cases in which it is declared that where an act or omission occurs a factory, shop, bakeshop, restaurant or office building shall be deemed to be kept so that the safety of the persons employed therein is endangered does not restrict or limit the generality of the provisions of subsection 1. R.S.O. 1950, c. 126, s. 71 (2). Enumeration not to affect generality

67. Every person who wilfully makes a false entry in a register, notice, certificate or document required by this Part or the regulations to be kept or served or sent, or who wilfully makes or signs a false declaration under this Part, or who knowingly makes use of any such false entry or declaration, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$300. R.S.O. 1950, c. 126, s. 72, *amended*. False entries, etc.

68. The parent of any child, youth, or young girl employed in contravention of this Part, unless such employment is without the consent, connivance or wilful default of such parent, is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. R.S.O. 1950, c. 126, s. 73; 1957, c. 32, s. 7. Parents

69. If any of the provisions of this Part, or of the regulations, or any directions of an inspector are contravened and no other penalty is provided for such contravention, the offender is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. R.S.O. 1950, c. 126, s. 74. General penalty

70. Where a child, youth or young girl is, in the opinion of the magistrate, apparently of the age alleged by the informant, it lies on the person charged to prove that the child, youth or young girl is not of that age. R.S.O. 1950, c. 126, s. 75; 1957, c. 32, s. 8. Onus of proof as to age

71. Where an offence for which an employer is liable under this Part or the regulations has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman or other person is also liable to the same Persons committing offence for which employer is liable

penalty or punishment for such offence as if he were the employer. R.S.O. 1950, c. 126, s. 76, *amended*.

Exemption
of employer
upon con-
viction of
the actual
offender

72. Where the employer is charged with an offence against this Part or the regulations, he is entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before the magistrate at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the magistrate that he used due diligence to enforce the execution of this Part and the regulations, and that such other person had committed the offence without the knowledge, consent or connivance of the employer, such other person may be summarily convicted of such offence and the employer is exempt from any penalty or punishment. R.S.O. 1950, c. 126, s. 77, *amended*.

Inspector
to proceed
against
actual
offender

73. Where it appears to the satisfaction of an inspector that an employer used all due diligence to enforce the execution of this Part and the regulations, and also by what person an offence against this Part or the regulations was committed, and that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders, the inspector shall proceed against the person whom he believes to be the actual offender in the first instance and not against the employer, and in case of his conviction the employer is exempt from any penalty or punishment. R.S.O. 1950, c. 126, s. 78.

Restraint on
cumulative
fines

74. A person is not liable in respect of a repetition of the same kind of offence from day to day to any larger penalty or punishment than the highest penalty or punishment fixed by this Part for the offence except where,

- (a) the repetition of the offence occurs after an information has been laid for the previous offence; or
- (b) the offence is one of employing two or more youths, young girls or women contrary to this Part. R.S.O. 1950, c. 126, s. 79.

Sufficiency
of allegation

75.—(1) It is sufficient to allege that a factory, shop, bake-shop, restaurant or office building is a factory, shop, bakeshop, restaurant or office building within the meaning of this Part.

Statement
as to name
of employer

(2) It is sufficient to state the name of the ostensible employer or the firm name by which the employer is usually known. R.S.O. 1950, c. 126, s. 80 (3, 4).

Minimum
penalty

76. Whenever in this Act it is provided that a penalty may be imposed for an offence against this Act and no minimum penalty is prescribed, no less penalty shall be imposed upon

conviction of the offence than an amount equivalent to one-tenth of the maximum penalty, and in no case less than \$10. R.S.O. 1950, c. 126, s. 81.

77. In all cases between employer and employed or their representatives where liability for damages arises by reason of a contravention of this Part or the regulations, the liability is subject to the limitations contained in *The Workmen's Compensation Act*. R.S.O. 1950, c. 126, s. 82, *amended*. Limitation of liability in certain cases
R.S.O. 1960, c. 437

PART II

MUNICIPAL BY-LAWS AS TO CLOSING OF SHOPS

78.—(1) In this section and in any by-law passed thereunder, Interpretation

- (a) "closed" means not open for the serving of any customer;
- (b) "shop" means a building or part of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers' shops, beauty parlours, shoe repair shops, shoe shine shops and hat cleaning and blocking businesses, but does not include a place where the only trade or business carried on is that of a licensed hotel or tavern, victualling house or refreshment house.

(2) Nothing in this section or in a by-law passed under it renders unlawful the continuance in a shop after the hour appointed for the closing thereof of any customers who were in the shop immediately before that hour or the serving of such customers during their continuance therein. Exception as to customers entering before closing hour

(3) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on each or any day of the week at and during any time or hours between 6 o'clock in the afternoon of any day and 5 o'clock in the forenoon of the next following day. By-law determining hours of closing

(4) If an application is presented to the council of a city, town or village praying for the passing of a by-law requiring the closing of a class of shops situate in the municipality and the council is satisfied that the application is signed by not less than three-quarters in number of the occupiers of shops in the municipality belonging to the class to which the application relates, the council shall, within one month after the presentation of the application, pass a by-law giving effect thereto and requiring all shops in the municipi- Council to pass by-law on application of occupiers of shops

pality belonging to the class to which the application relates to be closed during the period of the year and at the times and hours mentioned in subsection 3 as are named in the application.

Compulsory
closing of
shops for
weekly half-
holiday

(5) If an application is presented to the council of a city, town or village praying for the passing of a by-law requiring the closing of a class of shops situate in the municipality and the council is satisfied that the application is signed by not less than three-quarters in number of the occupiers of shops in the municipality belonging to the class to which the application relates, the council shall, within one month after the presentation of the application, pass a by-law giving effect thereto and requiring all shops in the municipality belonging to the class to which the application relates to be closed and remain closed on one particular day of the week during such time or hours between 12.30 o'clock in the afternoon and 5 o'clock in the forenoon of the next following day and during such periods of the year as are named in the application. R.S.O. 1950, c. 126, s. 83 (1-5).

Closing of
shops for
weekly
holiday

(6) If an application is presented to the council of a city, town or village praying for the passing of a by-law requiring the closing of a class of shops situate in the municipality and the council is satisfied that the application is signed by not less than three-quarters in number of the occupiers of shops in the municipality belonging to the class to which the application relates, the council may, within one month after the presentation of the application, pass a by-law giving effect thereto and requiring all shops in the municipality belonging to the class to which the application relates to be closed and remain closed during such periods of the year as are named in the application on one particular day of the week during the whole of such day and until such time not later than 5 o'clock in the forenoon of the next following day as the application requests. 1951, c. 23, s. 1.

Presentation
of applica-
tion

(7) If an application under this section is delivered to the clerk of the council, it shall be deemed to have been presented to and received by the council.

Powers of
township
councils

(8) The council of every township has, with respect to any part of the township designated in the by-law, all the rights and powers conferred by this section on the council of a city, town or village and may pass by-laws that apply only to the part of the township so designated.

Regulations
as to form
and proof of
applications

(9) The council may by by-law make regulations as to the form of the application and as to the evidence to be produced respecting the proportion of persons signing it and as to the classification of shops for the purposes of this section, and it is not compulsory upon the council to pass such

a by-law unless all such regulations have been duly observed.

(10) A by-law passed under this section takes effect at a date named therein, being not less than one nor more than two weeks after its passing, and shall before that date be published in such manner as to the council passing the by-law unless all such regulations have been duly observed.

Commence-
ment and
publication
of by-laws

(11) A council shall not repeal a by-law passed under subsection 4 except as provided in subsection 12.

Conditions
of repeal

(12) If at any time it is made to appear to the satisfaction of the council that more than one-third in number of the occupiers of shops to which a by-law passed under subsection 4 relates, or of any class of such shops, are opposed to the continuance of the by-law, the council may repeal it, or may repeal it in so far as it affects such class, but any such repeal does not affect the power of the council to thereafter pass another by-law under any of the provisions of this section.

Idem

(13) A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades during the hours in which it is by any such by-law required to be closed for the purpose of that one of such trades which is the principal trade carried on in such shop.

Closing of
shops in
which
several
trades are
carried on

(14) A pharmaceutical chemist or druggist is not, nor is an occupier of, or person employed in or about a shop in a village or township liable to any penalty or punishment under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by the by-law for the closing of shops, but nothing in this subsection authorizes a person to keep open shop after that hour.

Exception
as to sales by
druggists

(15) Nothing in any such by-law renders the occupier of a premises liable to any penalty or punishment for supplying an article to a person lodging in such premises, or for supplying an article required for immediate use by reason of an emergency arising from sickness, ailment or death, or for supplying or selling an article to a person for use on or in or about or with respect to a steamboat or sailing vessel which at the time of such supplying or selling is either in or in the immediate neighbourhood of the municipality in which the premises are situate, or for use by or with respect to a person employed or engaged on or being a passenger on or by any such steamboat or sailing vessel, but nothing in this subsection authorizes a person to keep open shop after the hour appointed by such by-law for the closing of shops.

Supplying
articles to
lodgers, etc.

(16) A by-law passed by the council of a township for the closing of all or any class or classes of shops may as to any or all of its terms and provisions, differ from any other by-law passed by the same council for the closing of all or any class

By-laws
containing
different
provisions
for different
localities

or classes of shops in any other designated part of the same township.

By-laws
invalid as to
one class
may be good
as to others

(17) Notwithstanding that the occupiers of a class of shops required to be closed by a by-law passed under subsection 4 may not have presented an application for the passing of such by-law, every such by-law is, nevertheless, valid and effectual as respects any other, and the occupiers of any other class of shops thereby required to be closed in conformity with an application in that behalf made or presented to the council by the prescribed number of occupiers of such last mentioned class

Burden of
proof

(18) The onus of proving that an application in compliance with subsection 4 was not presented by the prescribed number of the occupiers of a class of shops is upon the person asserting that the application was not so presented.

Agent or
servant
liable to
penalty

(19) Where an offence for which the occupier of a shop is liable under any such by-law to a penalty or punishment has in fact been committed by some agent or servant of the occupier, such agent or servant is liable to the same penalty or punishment as if he were the occupier.

Exemption
of occupier
on con-
viction of
actual
offender

(20) Where the occupier of a shop is charged with an offence against any such by-law, he is entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before a magistrate at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the magistrate that he used due diligence to enforce the execution of the provisions of the by-law and that such other person committed the offence without his knowledge, consent or connivance, such other person may be summarily convicted of such offence and is liable to the same penalty or punishment as if he were the occupier, and the occupier is exempt from any penalty or punishment.

R.S.O. 1960,
c. 249, to
apply

(21) The provisions of *The Municipal Act* as to the penalties that may be imposed for contravention of by-laws and the recovery thereof apply to by-laws passed under this section. R.S.O. 1950, c. 126, s. 83 (6-20).

Retail
gasoline
outlets

79. In addition to any matter authorized by section 78, any by-law thereunder applicable to retail gasoline service stations, gasoline pumps and outlets in the retail gasoline service industry as defined in *The Industrial Standards Act* may,

R.S.O. 1960,
c. 186

- (a) provide that the by-law shall apply only in the part or parts of the municipality designated in the by-law;
- (b) require that during the whole or any part or parts of the year such retail gasoline service stations, gasoline

pumps and outlets be closed and remain closed at and during any time or hours between 6 o'clock in the afternoon of any day and 7 o'clock in the forenoon of the next following day and between 6 o'clock in the afternoon of Saturday and 7 o'clock in the forenoon of the next following Monday; and

- (c) provide for the issuing of permits authorizing the retail gasoline service station, gasoline pump or outlet for which it is issued to be and remain open, notwithstanding the by-law, during the part or parts of the day or days specified in the permit. R.S.O. 1950, c. 126, s. 84.

80.—(1) In this section, "hotel" means a separate building or two or more connected buildings used mainly for the purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not less than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as "boarding houses" or of furnishing living quarters for families and having a dining-room or restaurant commonly known as "apartment houses" or "private hotels".

Interpre-
tation

(2) For the purposes of the sale of non-intoxicating drinks and beverages, cigars, cigarettes and tobacco and the conduct of an ice-cream parlour, restaurant or cafe, the keeper of an hotel shall not be required,

Sale of
soft
drinks, etc.

- (a) to obtain any licence issued by a municipal authority; or
- (b) to comply with any by-law relating to early closing. R.S.O. 1950, c. 126, s. 85.

CHAPTER 131

The Fair Accommodation Practices Act

Whereas it is public policy in Ontario that places to which the public is customarily admitted be open to all without regard to race, creed, colour, nationality, ancestry or place of origin; whereas it is desirable to enact a measure to promote observance of this principle; and whereas to do so is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (b) "officer" means the officer in the civil service who is designated by the Lieutenant Governor in Council to enforce this Act. 1954, c. 28, s. 1.

2. No person shall deny to any person or class of persons the accommodation, services or facilities available in any place to which the public is customarily admitted because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons. 1954, c. 28, s. 2.

Discrimina-
tion pro-
hibited**3.—(1) No person shall,**

- (a) publish or display or cause to be published or displayed; or
- (b) permit to be published or displayed on lands or premises or in a newspaper, through a radio broadcasting station or by means of any other medium that he owns or controls,

Publishing
or displaying
discrimina-
tory signs,
etc., pro-
hibited

any notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against any person or any class of persons for any purpose because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons.

(2) Nothing in this section shall be deemed to interfere with the free expression of opinions upon any subject by

Free speech
not affected

speech or in writing and does not confer any protection to or benefit upon enemy aliens. 1954, c. 28, s. 3.

Action on
complaints

4.—(1) The Minister may require the officer to inquire into the complaint of any person that a contravention of this Act has taken place.

Form of
complaint

(2) Every such complaint shall be in writing on the form prescribed by the Minister and shall be mailed or delivered to him at his office.

Inquiry
and report

(3) When directed so to do, the officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Minister. 1954, c. 28, s. 4, *amended*.

Commis-
sion, ap-
pointment

5.—(1) If the officer is unable to effect a settlement of the matter complained of, the Minister may appoint a commission composed of one or more persons and shall forthwith communicate the names of the members to the parties and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto or otherwise to question the appointment of the commission, or to review, prohibit or restrain any of its proceedings.

powers
R.S.O. 1960.
c. 202

(2) The commission has all the powers of a conciliation board under section 28 of *The Labour Relations Act*.

duties

(3) The commission shall give the parties full opportunity to present evidence and to make submissions and if it finds that the complaint is supported by the evidence it shall recommend to the Minister the course that ought to be taken with respect to the complaint.

Majority
recommen-
dations
prevail

(4) If the commission is composed of more than one person, the recommendations of the majority are the recommendations of the commission.

Clarifica-
tion of
recom-
mendations

(5) After a commission has made its recommendations, the Minister may direct it to clarify or amplify any of them and they shall be deemed not to have been received by the Minister until they have been so clarified or amplified.

Minister's
order

(6) The Minister may issue whatever order he deems necessary to carry the recommendations of the commission into effect and the order is final and shall be complied with in accordance with its terms. 1954, c. 28, s. 5.

Offences

6.—(1) Every person who contravenes any provision of this Act or any order made under this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$50;
or
(b) if a corporation, to a fine of not more than \$100.

(2) The fines recovered for offences against this Act shall ^{Disposition of fines} be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1954, c. 28, s. 6.

7. No prosecution for an offence under this Act shall be ^{Consent to prosecution} instituted except with the consent in writing of the Minister. 1954, c. 28, s. 7.

8.—(1) Where a person has been convicted of a contra- ^{Injunction proceedings} vention of section 3, the Minister may apply by way of originating notice to a judge of the Supreme Court for an order enjoining such person from continuing such contravention.

(2) The judge in his discretion may make such order and ^{Idem} the order may be enforced in the same manner as any other order or judgment of the Supreme Court. 1954, c. 28, s. 8.

CHAPTER 132

The Fair Employment Practices Act

Whereas it is contrary to public policy in Ontario to discriminate against men and women in respect of their employment because of race, creed, colour, nationality, ancestry or place of origin; whereas it is desirable to enact a measure designed to promote observance of this principle; and whereas to do so is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) "Director" means the Director of the Fair Employment Practices Branch of the Department of Labour;
- (b) "employment agency" includes a person who undertakes with or without compensation to procure employees for employers and a person who undertakes with or without compensation to procure employment for persons;
- (c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (d) "Minister" means the Minister of Labour;
- (e) "person", in addition to the extended meaning given it by *The Interpretation Act*, includes employment agency, employers' organization and trade union; R.S.O. 1960,
c. 191
- (f) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers. 1951, c. 24, s. 1.

2. This Act does not apply,Where Act
does not
apply

- (a) to a domestic employed in a private home;
- (b) to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit or to any organization that is oper-

ated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit;

- (c) to an employer who employs fewer than five employees. 1951, c. 24, s. 2.

Employers
not to dis-
criminate
in employ-
ment
practices

3. No employer or person acting on behalf of an employer shall refuse to employ or to continue to employ any person or discriminate against any person in regard to employment or any term or condition of employment because of his race, creed, colour, nationality, ancestry or place of origin. 1951, c. 24, s. 3.

Membership
in trade
union

4. No trade union shall exclude from membership or expel or suspend any person or member or discriminate against any person or member because of race, creed, colour, nationality, ancestry or place of origin. 1951, c. 24, s. 4.

Employment
applications
and adver-
tisements
not to dis-
criminate

5. No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry that expresses either directly or indirectly any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any person. 1951, c. 24, s. 5.

Conciliation
officer,
appoint-
ment

6.—(1) The Minister may on the recommendation of the Director designate a conciliation officer to inquire into the complaint of any person that he has been refused employment, discharged or discriminated against contrary to section 3, or that he has been excluded, expelled, suspended or discriminated against contrary to section 4, or that a person has used or circulated any form or published any advertisement or made any inquiry contrary to section 5.

Form of
complaint

(2) Every such complaint shall be in writing on the form prescribed by the Director and shall be mailed or delivered to him at his office.

Conciliation
officer,
duties

(3) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Director. 1951, c. 24, s. 6, *amended*.

Commission,
appoint-
ment

7.—(1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may, on the recommendation of the Director, appoint a commission composed of one or more persons and shall forthwith communicate

the names of the members to the parties and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto or otherwise to question the appointment of the commission, or to review, prohibit or restrain any of its proceedings.

(2) The commission has all the powers of a conciliation board under section 28 of *The Labour Relations Act*. ^{powers} R.S.O. 1960, c. 202.

(3) The commission shall give the parties full opportunity ^{duties} to present evidence and to make submissions and if it finds that the complaint is supported by the evidence it shall recommend to the Director the course that ought to be taken with respect to the complaint, which may include reinstatement with or without compensation for loss of earnings and other benefits.

(4) If the commission is composed of more than one person, ^{Majority} the recommendations of the majority are the recommendations ^{recommen-} of the commission. ^{dations}

(5) After a commission has made its recommendations, the Director may direct it to clarify or amplify any of them and they shall be deemed not to have been received by the Director until they have been so clarified or amplified. ^{Clarifica-} ^{tion of} ^{recommen-} ^{dations}

(6) The Minister on the recommendation of the Director may issue whatever order he deems necessary to carry the recommendations of the commission into effect and the order is final and shall be complied with in accordance with its terms. ^{Minister's} ^{order}

(7) Each member of a commission shall be remunerated ^{Remunera-} for his services at the same rate as the chairman of a concilia- ^{tion} tion board appointed under *The Labour Relations Act*. 1951, c. 24, s. 7.

8.—(1) Every person who contravenes any provision of this Act or any order made under this Act is guilty of an offence and on summary conviction is liable, ^{Offences}

(a) if an individual, to a fine of not more than \$50;
or

(b) if a corporation, trade union, employers' organization or employment agency, to a fine of not more than \$100.

(2) The fines recovered for offences against this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. ^{Disposition} ^{of fines} 1951, c. 24, s. 8.

Style of
prosecutions

9. A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the union or organization shall be deemed to be an act or thing done or omitted by the union or organization. 1951, c. 24, s. 9.

Consent to
prosecution

10.—(1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister on the recommendation of the Director.

Idem

(2) The Director shall not make such a recommendation if he is satisfied that the act complained of was done in good faith solely for the purpose of preserving the security of Canada or a part thereof or of a state allied or associated with Canada in connection with a national emergency or a war, invasion or insurrection, real or apprehended. 1951, c. 24, s. 10.

CHAPTER 133

The Farm Loans Act

1. In this Act,Interpre-
tation

- (a) "association" means a farm loan association incorporated under this Act;
- (b) "Commissioner" means the Commissioner of Agricultural Loans;
- (c) "directors" means the directors of a farm loan association;
- (d) "local municipality" means a township or village;
- (e) "Treasurer" means the Treasurer of Ontario;
- (f) "secretary-treasurer" means the secretary-treasurer of a farm loan association. R.S.O. 1950, c. 127, s. 1.

2. A farm loan association may be formed for the purpose of loaning money under this Act in any part of Ontario described in the certificate of incorporation. R.S.O. 1950, c. 127, s. 2.

Farm loan
association

3. Where it is desired to form such an association, an application in such form as is prescribed by the regulations and describing the territory for which the association is to be formed shall be forwarded to the Commissioner at Toronto. R.S.O. 1950, c. 127, s. 3.

Application

4.—(1) The Commissioner shall name a person to act temporarily as secretary-treasurer of the proposed association, and shall instruct the secretary-treasurer to call a meeting of those interested.

Temporary
secretary-
treasurer

(2) At such meeting five provisional directors shall be elected, and the work of organization shall be completed under their direction. R.S.O. 1950, c. 127, s. 4.

Provisional
directors

5. Any person resident in the territory described in the application and actually engaged in farming operations, or agreeing to become so engaged within one year, is eligible for membership. R.S.O. 1950, c. 127, s. 5.

Persons
eligible for
membership

Certificate
of incor-
poration

6. No association shall be deemed to be incorporated until a certificate of incorporation setting forth that all the terms of this Act have been complied with has been issued by the Commissioner as hereinafter provided. R.S.O. 1950, c. 127, s. 6.

Capital
stock

7.—(1) The amount of the capital stock of the association shall be fixed by the Commissioner and shall be made up as follows:

1. One share of par value of \$100 to be subscribed by each member.
2. Shares of par value of \$100 to the extent of one-half of the total amount subscribed by individual members subscribed for by the corporations of local municipalities in the territory for which the association is formed.
3. Shares of par value of \$100 each to the extent of one-half of the total amount subscribed by individual members subscribed for by the Province of Ontario.

Minimum
number of
members

(2) No association shall be incorporated or carry on business until at least thirty members have subscribed for stock in the association. R.S.O. 1950, c. 127, s. 7.

Terms of
payments

8. Each member shall pay 10 per cent of the par value of his stock at the time of subscription and the balance when called upon, and payments by municipal corporations and the Province shall be made at the same time and in the same proportions as those of individual members. R.S.O. 1950, c. 127, s. 8.

Council of
local
municipality
may
subscribe

9. The council of a local municipality may in its discretion by by-law subscribe to the stock of any association incorporated under this Act to the extent and upon the terms herein provided, and may pay for the stock subscribed for and take all steps incidental thereto and to the carrying out of the provisions of this Act and may issue debentures of the corporation payable within a period not exceeding ten years for the amount of such subscription in the manner provided by *The Municipal Act*, but it is not necessary to submit any by-law for the issue of such debentures to the electors qualified to vote on money by-laws nor to observe the other formalities in relation thereto prescribed by *The Municipal Act*. R.S.O. 1950, c. 127, s. 9.

R.S.O. 1960,
c. 249

Where two
or more
municipal-
ities
combine

10. In the event of two or more municipalities combining in such subscription, the stock held by them may be held in the joint names of the corporations or severally in such proportions as they agree upon, and may be acted upon in such joint or separate manner as they from time to time agree upon. R.S.O. 1950, c. 127, s. 10.

11. Upon receipt of a report from the Commissioner that an association is being formed in accordance with this Act, the Treasurer, with the approval of the Lieutenant Governor in Council, may subscribe for shares in accordance with paragraph 3 of subsection 1 of section 7, and all necessary payments shall be made out of the Consolidated Revenue Fund or in bonds or other securities issued or guaranteed by the Province. R.S.O. 1950, c. 127, s. 11.

Treasurer,
when may
subscribe

12.—(1) To represent the stock subscribed and to assist generally in the conduct of the business of the association, two directors shall be appointed by a municipal corporation subscribing, or if more than one municipal corporation is subscribing, one director shall be appointed by each corporation and in every case two directors shall be appointed by the Lieutenant Governor in Council.

Appoint-
ment of
directors

(2) Directors named under this section shall serve for a period of two years or until their successors are appointed. R.S.O. 1950, c. 127, s. 12.

Directors'
term of
office

13. Shares owned by members may be transferred to other members or purchased by the association only with the approval of the board of directors. R.S.O. 1950, c. 127, s. 13.

Transfer of
shares

14.—(1) The secretary-treasurer is responsible for all moneys or securities realized by the sale of capital stock and such moneys or securities shall, where not needed for liabilities, be invested in bonds or debentures of or guaranteed by a government or municipality, as may be ordered by the directors with the approval of the Commissioner.

When
moneys
to be in-
vested by
secretary-
treasurer

(2) The secretary-treasurer shall give such security for the due performance of the duties of his office and for the safe custody of the moneys coming to his hands as is prescribed by the regulations, and he shall at all times keep all moneys and securities in his hands separate from his own moneys and shall deposit them in a chartered bank to the credit of the association. R.S.O. 1950, c. 127, s. 14.

Secretary-
treasurer
to give
security

15. When capital stock has been arranged for as prescribed, the secretary-treasurer shall call a meeting of the members and the directors named by the subscribing municipality and the Province and such meeting shall select the proposed corporate name, to wit "Farm Loans Association of (insert name)", and shall complete the organization of the association. R.S.O. 1950, c. 127, s. 15.

Organization
of
association

16.—(1) The subscribing members shall, at such meeting, from among themselves elect a president, vice-president and one director who, with the directors named by the municipality and the Province, constitute the board of directors.

Officers

Term of
office

(2) The president, vice-president and director shall hold office for one year or until their successors are elected. R.S.O. 1950, c. 127, s. 16.

Application
for cer-
tificate of
incorpora-
tion

17.—(1) The secretary-treasurer, immediately after the holding of the meeting, shall advise the Commissioner that organization has been completed and shall give the names of officers and directors and make application for a certificate of incorporation.

Association,
when to be
deemed
incorporated

(2) Upon receipt of such application the Commissioner may issue a certificate of incorporation to the association in the name approved and thereupon the association is a body corporate and shall for all purposes be deemed to be duly incorporated and may carry on business and exercise all the powers conferred upon it by this Act.

Vacancy in
directorates

(3) Upon a vacancy occurring among the directors, the vacancy shall be filled by the body appointing the director whose seat has become vacant.

Quorum

(4) Two of the directors elected by the members and three of the directors appointed by the municipality and the Province constitute a quorum of the directors. R.S.O. 1950, c. 127, s. 17.

Appoint-
ment of
secretary-
treasurer

18. The board of directors is responsible for carrying on the business of the association, shall appoint a secretary-treasurer, who may or may not be a member, and has power to fix the duties of all officers and, subject to the regulations, make rules governing procedure at all meetings of the directors or the association and the conduct of the association generally. R.S.O. 1950, c. 127, s. 18.

Officers and
directors to
be paid only
for dis-
bursements

19. No officer or director, except the secretary, shall be paid any salary or fee by the association, other than actual disbursements necessarily made in attending to the business of the association and approved by the directors. R.S.O. 1950, c. 127, s. 19.

Annual
meeting

20. An annual meeting of the association shall be held once in every year, between the 1st day of January and the 1st day of March, of which due notice shall be given by the secretary by letters addressed to each subscriber and director, and at such meeting reports shall be presented by the officers showing fully the business done by the association during the last calendar year. R.S.O. 1950, c. 127, s. 20.

Additional
members,
when
admitted

21. After the incorporation of an association, additional members may be admitted with the approval of the directors and under such conditions as the directors prescribe. R.S.O. 1950, c. 127, s. 21.

22. The object of an association incorporated under this Act is to promote individual prosperity and agricultural development by securing for members short-term loans for current expenditures. R.S.O. 1950, c. 127, s. 22. Object

23. When an association desires to secure credit for its members, the secretary shall advise the Commissioner who shall inform the association as to the facilities available and the steps to be taken in furtherance of this Act. R.S.O. 1950, c. 127, s. 23. Where association desires credit

24.—(1) A member of an association is entitled to apply for a short-term loan for any one or more of the following purposes: Short-term loans may be made, for what purposes

1. Purchase of seed, feed, fertilizer and other supplies.
2. Purchase of implements and machinery.
3. Purchase of cattle, horses, sheep, pigs and poultry.
4. Payment of the cost of carrying on any farming, ranching, dairying or other agricultural operations.
5. Payment of the cost of preparing land for cultivation.
6. Fire or life insurance where required, in the opinion of the directors, as collateral security for a loan made for any of the above-mentioned purposes.

(2) No loan to a member of an association shall exceed in amount \$2,000, but an additional loan or loans may be made to a member if the total amount of indebtedness outstanding on account of the member does not at any time exceed \$2,000. R.S.O. 1950, c. 127, s. 24, *revised*. Limit of amount of loan

25. A member of an association desiring a loan shall sign an application in the form prescribed, stating the amount required and the purpose for which it is to be used, and agreeing to repay the loan at a date therein to be named, which shall not be later than the 31st day of December next thereafter, together with interest at the rates fixed in accordance with this Act. R.S.O. 1950, c. 127, s. 25. Application for loan, what to include

26. All such applications shall be delivered to the secretary and shall be presented by him to the directors at the next following meeting, and the directors shall determine whether an application shall be approved, and may approve it in part or on such terms as they deem proper, and may demand such security from the applicant as they think necessary, and in the event of the application being approved in part only or being varied, a new application shall be signed by the applicant in accordance with the approval and the former application cancelled. R.S.O. 1950, c. 127, s. 26. Approval of directors

Form of
approval

27.—(1) When an application has been finally approved by the directors, the approval shall be certified on the application in the form prescribed and shall be signed by the secretary and by the president or vice-president, and a record of all applications approved shall be entered in the minutes of the association, and one duplicate or copy thereof shall be delivered to the applicant and another duplicate or copy retained by the association.

Idem

(2) In the event of the absence from any cause of any such officers, the directors may by resolution authorize any other officer to sign the approval in his stead. R.S.O. 1950, c. 127, s. 27.

Original
copy of
application
with ap-
proval to be
delivered
to bank

28. Whenever an application has been duly made and approved, the secretary shall deliver the original thereof to such bank or person as the directors have authorized, and shall settle the times and conditions at and upon which the amount shall be advanced, and, upon the same being agreed to by the lender, shall advise the applicant and shall enter a record thereof in the books of the association. R.S.O. 1950, c. 127, s. 28.

Note may be
required

29. Before any moneys are advanced under an approved application, the lender or association may require the borrower to sign a note or notes for the amount of the moneys to be advanced, and the association shall endorse such note or notes, but the terms of such notes shall not vary in any way from the terms of the approved application or from the provisions of this Act, and the secretary is hereby authorized to endorse such notes on behalf of the association. R.S.O. 1950, c. 127, s. 29.

Interest

30. The rate of interest payable by a borrower on a loan guaranteed by an association shall not exceed 7 per cent per annum, and out of the interest paid one-seventh shall be paid to the association for the purposes hereinafter mentioned, which share of interest shall be paid by the lender to the association as soon as the loan and all interest thereon has been received by him and the security given to the lender shall not be surrendered until all such interest charges have been paid. R.S.O. 1950, c. 127, s. 30.

Renewal

31. In the event of a borrower not being able to repay the amount of his loan on or before the 31st day of December for reasons that appear to the directors to be justifiable, or on account of the loan having been granted for purposes not productive within one year, the directors may, on the application of the borrower, authorize a renewal of any portion of the loan until such further time as is agreed, but not

later than one year next after the maturity of the previous loan, and the application for such renewal loan shall be in the same form as for an original loan, except that it shall be stamped with the word "Renewal", and shall be kept distinct from any new application made by the same borrower, but in all other respects the provisions of this Act relating to applications and the endorsements thereof, and the rights and liabilities arising thereunder, are applicable to such renewals. R.S.O. 1950, c. 127, s. 31.

32.—(1) In the event of a borrower failing to pay the amount of his loan, or to renew it within one month from its due date, the lender may demand payment of the amount owing, with interest thereon to date of payment, and the association shall within fifteen days from the receipt of such demand provide for the payment of such amount. Failure of borrower to make payments

(2) If on the expiry of the fifteen days payment has not been made to the lender, the balance unpaid on the subscriptions of the several members, the municipal corporation and the Province, forthwith becomes due and payable, and the liability of the municipal corporation and of the Province respectively to make payment thereof to the amount of such demand is not contingent upon payment by the members or any of them. Where payment not made

(3) Upon payment, the lender shall deliver to the association all securities held by him for the loan or any part thereof, and the association is entitled to recover the amount so paid from the borrower by any means authorized by this Act or by any other statute or law applicable thereto. R.S.O. 1950, c. 127, s. 32. Where payment made

33. Every lender from whom loans are obtained by an association under this Act shall forward to the Commissioner a monthly return showing each loan made by it under this Act, and the amount advanced at the date of such return and also showing all loans, if any, then past due. R.S.O. 1950, c. 127, s. 33. Monthly return

34. All animals, machinery, goods or personal property of any kind purchased or partly purchased with the proceeds of a loan obtained under this Act, or for the purchase of which a loan has been granted, together with the offspring of such animals and the crops or other products grown upon any lands for the working of which such loan has been made or used, are subject to a lien for the amount of the loan in favour of the association approving without any further writing or act by the borrower, and none of such property shall be removed from the premises of the borrower or beyond the limits of the district in which the association is authorized Security; goods purchased to be subject to lien

to carry on business during the currency of such loan without the consent of the secretary, except for the purpose of sale, and all proceeds of the sale of any of such property shall without delay be paid to the lender on account of the loan. R.S.O. 1950, c. 127, s. 34.

Additional
security

35.—(1) The directors may, before granting an application, require such further security as they think necessary, and upon such terms and conditions as they approve.

Form and
assignment
of security

(2) The directors are hereby authorized to take in the name of the association any form of security and to exercise all rights thereunder, and may assign such security, with all rights appertaining thereto, to the lender.

Powers
interpreted

(3) The powers of the directors as to taking security in the name of the association includes the power to take, by way of additional security, mortgages on real or personal property or assignments of agreements of sale thereof, and to exercise all rights conferred by such securities. R.S.O. 1950, c. 127, s. 35.

When asso-
ciation has
lien on
personal
property of
borrower

36.—(1) The association has a lien or charge on all the personal property of the borrower for securing repayment of any such loan, upon filing a certificate of the secretary of the association in the office of the clerk of the county or district court of the county or district in which is situated the land upon which the borrower carries on the operations for which the loan was made to him, showing the amount of the loan and the name and address of the borrower.

Registration
of certificate

(2) The certificate shall be registered within five days from the date thereof and has effect only from the date of registration.

Discharge
of lien

(3) The registration in the same office of a subsequent certificate signed by the secretary of the association, showing repayment of such loan, operates as a discharge of such lien.

No charge
for registra-
tion

(4) The clerk of the county or district court shall register the certificate and discharge without the payment of any fee therefor. R.S.O. 1950, c. 127, s. 36.

Right of
entry of
bank or
person
making loan

37. The bank or person making a loan or a representative and the association endorsing a loan or an officer or director thereof have the right at any time during the currency of the loan to enter on the premises of the borrower and inquire into the manner in which the borrower is carrying on such farming or other operations as are required for the proper development of the purposes for which the loan was granted, or to ascertain that the terms of the loan are being carried out, or that the security for the loan is in good condition and on the premises of the borrower in the district. R.S.O. 1950, c. 127, s. 37.

38. In the event of the death, insolvency or mental illness of the borrower, or of his deserting the premises, or of his failure to carry out the purposes of the loan, the directors of the association, or any three of them, may apply to a county court judge for an order placing the association, or a person named by it, in possession of all goods, animals or property covered by any security given under this Act, and of any or all other property, real or personal, of the borrower lying within the municipality that may be required for the proper care, use, or preservation of the security, and the judge has power, after such notice to the borrower as he thinks reasonable, or without notice, to make an order for the purposes aforesaid and to authorize such persons as he names to carry out such order. R.S.O. 1950, c. 127, s. 38.

Death,
insolvency,
or mental
illness of
borrower

39. No person who has obtained a loan under this Act, any part of which remains unpaid, shall dispose of or attempt to dispose of his stock, chattels or crops otherwise than in the ordinary course of business. R.S.O. 1950, c. 127, s. 39.

Disposing
of property
covered
by lien

40. The borrower is personally liable for the payment of the amount of any loan made under this Act, or any balance thereof, and for all interest charges and costs of collection thereof. R.S.O. 1950, c. 127, s. 40.

Borrower
personally
liable

41. It is not incumbent on any person or bank making a loan under this Act to see to the due application of the moneys loaned, and the misapplication or non-application of such moneys does not affect the security for the loan. R.S.O. 1950, c. 127, s. 41.

Misapplica-
tion of
funds not
to affect
security

42. The directors of an association are qualified to act as a qualification committee under *The Agricultural Development Act*, and members of an association may make application through its secretary for a long-term loan under that Act. R.S.O. 1950, c. 127, s. 42.

Directors
qualified
to act as
qualification
committee
R.S.O. 1960,
o. 8

43. The Commissioner has general supervision of all associations, and all books and records of any association shall be open at all times to inspection and audit by the Commissioner or such other person as is named by the Lieutenant Governor in Council. R.S.O. 1950, c. 127, s. 43.

Books and
records to
be open to
inspection

44. The moneys received by an association from the share of interest received by it shall be applied,

Application
of moneys

- (a) in payment of the necessary expenses of the association;
- (b) in payment of a dividend on the paid-up stock of not more than 6 per cent per annum;

(c) in accumulating a reserve that may, in the discretion of the directors, be invested in the same manner as the capital stock,

and in the event of the dissolution of an association, any accumulated reserve shall be divided among the subscribers in proportion to the amount of the capital stock respectively held by them. R.S.O. 1950, c. 127, s. 44, *revised*.

Application
to secretary
for information
regarding a
borrower

45. Any person dealing with a borrower or a person believed to be a borrower from an association, and proposing to sell goods on credit or to lend money or make advances to such person, may apply to the secretary of the association for information as to the advances that have been made or authorized to such person and the purposes thereof, and the secretary, on being satisfied of the *bona fides* of the request, shall furnish any information shown on the records of the association at the date of the request. R.S.O. 1950, c. 127, s. 45.

Meetings

46. The directors shall hold one or more meetings in each of the months of March and April in every year for the consideration of applications for loans, and shall hold such further meetings as may be required from time to time on the call of the president or on the written request of any three members of the board delivered to the secretary, and the directors shall also hold one or more meetings in the month of January in each year for the consideration of loans, if any, on which the full amount has not been paid prior to the 31st day of December preceding. R.S.O. 1950, c. 127, s. 46.

Regulations

47. The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 127, s. 47.

Treasurer
may loan
money to
associations

48. The Treasurer may, with the approval of the Lieutenant Governor in Council, lend money to any such association for the purpose of assisting it to carry on its business on such terms as to interest, repayment and security as are agreed upon. R.S.O. 1950, c. 127, s. 48.

Agreements
of Treasurer
with banks,
etc., to
secure
money

49. The Treasurer may, with the approval of the Lieutenant Governor in Council, enter into agreements and guarantees with banks, loan companies or other corporations for securing moneys for the purposes of associations, and may make provision for such rates of interest and conditions of repayment as seem proper. R.S.O. 1950, c. 127, s. 49.

CHAPTER 134

The Farm Loans Adjustment Act

1. In this Act,

Interpre-
tation

- (a) "Commissioner" means the Commissioner of Agricultural Loans appointed under *The Agricultural Development Act*;
- (b) "judge" means judge of a county or district court;
- (c) "loan" means a loan made under *The Agricultural Development Act*, *The Farm Loans Act* or *The Northern Development Act* for farming or agricultural purposes and includes an amount owing under an agreement for sale made pursuant to any of such Acts; R.S.O. 1960,
cc. 8, 133
R.S.O. 1937,
c. 34
- (d) "Treasurer" means the Treasurer of Ontario. R.S.O.
1950, c. 128, s. 1.

2.—(1) A person who is liable for the payment of a loan may make application to the Commissioner to have the loan reviewed by a judge for the purpose of obtaining any or all of the following relief:

Applica-
tion for
review
of loan

1. A reduction in the amount of the principal outstanding.
2. A reduction in the amount of the arrears of interest.
3. An extension of the time for payment of the loan.

(2) Every such application shall be in the prescribed form verified under oath and shall be sent in duplicate by registered mail to the Commissioner. Idem R.S.O. 1950, c. 128, s. 2.

3.—(1) Within ninety days of receipt of an application under section 2, the Commissioner shall apply to a judge for an appointment for hearing and shall furnish the judge with a copy of the application and of any further material that he deems advisable and the judge shall appoint a time and place for the hearing.

Appoint-
ment for
hearing

(2) The Commissioner shall cause a copy of the appointment for hearing and of any material that has been furnished to the judge to be sent by registered mail to the applicant at least thirty days before the day named for the hearing. Copy of
appointment R.S.O. 1950, c. 128, s. 3.

Order of
judge

4.—(1) Upon the hearing, the judge shall consider the representations of the applicant and the Commissioner and the evidence adduced and may make such order granting the relief applied for or dismissing the application as he deems proper having regard to,

- (a) the nature and value of the land in respect of which the loan is made and the revenue that it is capable of producing;
- (b) the amount and nature of encumbrances against the land;
- (c) the financial and domestic obligations of the applicant and the income of the applicant from all sources; and
- (d) all other relevant circumstances,

and the order of the judge is final, subject only to such further order as may be made on any subsequent application.

Powers
of judge

R.S.O. 1960,
o. 323

(2) Upon the hearing and review, the judge has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act* and he may hear the submissions and evidence of such persons as he deems advisable. R.S.O. 1950, c. 128, s. 4.

Subsequent
application

5. A subsequent application in respect of any loan may be made after the expiration of a period of two years from the date of an order made upon a previous application. R.S.O. 1950, c. 128, s. 5.

Powers of
Treasurer

6. Subject to the approval of the Lieutenant Governor in Council, the Treasurer may,

- (a) prescribe the form of application for relief and such other forms as he deems necessary;
 - (b) provide for payment of the expenses of every judge to whom an application is made;
 - (c) make such regulations as he deems necessary respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 128, s. 6.
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CHAPTER 135

The Farm Products Containers Act

1. In this Act,

Interpre-
tation

- (a) "association" means The Ontario Bee-keepers' Association or The Ontario Fruit and Vegetable Growers' Association;
 - (b) "container" includes any bag, basket, box, can, crate or other receptacle used or suitable for use in the marketing of honey, fruit or vegetables;
 - (c) "inspector" means the inspector appointed to administer and enforce this Act;
 - (d) "licence" means a licence issued under this Act;
 - (e) "manufacturer" means a person engaged in the business of manufacturing or selling containers used or suitable for use in the marketing of honey, fruit or vegetables;
 - (f) "Minister" means the Minister of Agriculture;
 - (g) "producer" means a person engaged in the production of honey, fruit or vegetables and includes a person engaged in the handling, packing, processing, shipping, transporting, purchasing or selling of honey, fruit or vegetables;
 - (h) "product" means honey or any fruit or vegetable.
- R.S.O. 1950, c. 129, s. 1.

2. When the Minister receives from an association a request asking that for the purpose of defraying the expenses of the association, every producer of any product specified in the request who purchases containers therefor, be required to obtain a licence and to pay licence fees, the Minister, subject to the approval of the Lieutenant Governor in Council, may, if he is of the opinion that the association is fairly representative of such producers, make an order,

Establish-
ment of fund

- (a) providing for the licensing of every such producer and requiring him to pay licence fees through the manufacturer to the association and fixing the amount of such fees and the times of payment thereof;
- (b) exempting any class of producer from the order;

- (c) requiring every manufacturer who sells containers either directly or indirectly to producers to collect the licence fees from the producers and to pay them to the association;
- (d) prohibiting the association from using any licence fees for the retail or wholesale distribution or processing of the product; and
- (e) requiring the association and manufacturers to furnish the inspector with such information and financial statements as the inspector requests. R.S.O. 1950, c. 129, s. 2.

Offence

3. Every person who contravenes any of the provisions of an order of the Minister made under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$50 and not more than \$200 for a subsequent offence. R.S.O. 1950, c. 129, s. 3.

CHAPTER 136

The Farm Products Grades and Sales Act**1. In this Act,**Interpre-
tation

- (a) "farm product" means such animals, animal products, fruit, fruit products, grains, honey, maple products, seeds, tobacco, vegetables, vegetable products, wood or any class thereof and articles of food or drink manufactured or derived in whole or in part from any of those products as are designated in the regulations;
- (b) "grade" means a grade established under this Act;
- (c) "grader" means a grader appointed under this Act;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "Minister" means the Minister of Agriculture;
- (f) "package" includes any box, crate or other receptacle used for or suitable for use in the marketing, transporting or shipping of a farm product;
- (g) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 130, s. 1; 1960, c. 35, s. 1.

2.—(1) The Lieutenant Governor in Council may make Regulations regulations,

- (a) designating as a farm product any farm product or a class thereof or any article of food or drink manufactured or derived in whole or in part from a farm product;
- (b) establishing grades for a farm product;
- (c) providing for the inspecting, grading, packing and marking of farm products;
- (d) respecting the buying, selling, advertising, handling shipping and transporting of farm products;
- (e) respecting packages for farm products;
- (f) prescribing the manner in which sellers, transporters and shippers of farm products shall identify, for purposes of grading, individual producer's lots in a shipment;

- (g) prescribing the manner in which shippers or packers shall make returns and prepare for presentation to the producer the statements of accounts of purchase of farm products and for the investigation of such statements and the transactions represented thereby;
- (h) prescribing the fees payable upon the inspection and grading of a farm product;
- (i) prescribing the powers and duties of inspectors and graders;
- (j) providing for the issuing of inspection and grading certificates by inspectors and graders;
- (k) providing for the exemption from this Act or the regulations, or any part thereof, of any person or group of persons;
- (l) respecting the cleanliness and sanitation of premises in which a farm product is stored, processed, graded, packed, sold or offered for sale;
- (m) providing for the issuing of licences for engaging in the marketing or storing of farm products and for operating markets for farm products and for the renewal, refusal, suspension and revocation of such licences;
- (n) prohibiting persons from engaging in the marketing or storing of farm products and from operating markets for farm products except under the authority of a licence under this Act;
- (o) prescribing the terms and conditions upon which licences may be issued, renewed, suspended and revoked and fixing the fees payable therefor;
- (p) prescribing forms and providing for their use;
- (q) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 35, s. 2.

Limitation
as to time

(2) Any regulation may be limited as to time and place.

Definitions

(3) Any word or expression used in a regulation may be defined in the regulation for the purpose of the regulation. R.S.O. 1950, c. 130, s. 2 (2, 3).

Inspection
points

3.—(1) The Minister may designate places where farm products may be inspected and such highway inspection points as are considered necessary.

(2) The Minister may, by order, require persons in charge ^{Idem} of farm products that are being transported from an area designated by him to proceed to a designated highway inspection point and to remain there until the farm products are inspected. R.S.O. 1950, c. 130, s. 3 (2, 3).

4. The Minister may authorize the experimental use of any package, but such package shall be identified and used ^{Experimental use of packages} only in the manner authorized by the Minister. R.S.O. 1950, c. 130, s. 3 (4).

5. The Minister may appoint inspectors and graders whose ^{Inspectors, appointment} duties are to carry out the provisions of this Act. R.S.O. 1950, c. 130, s. 3 (1).

6.—(1) Every inspector, for the purpose of enforcing this ^{Powers of inspectors} Act and the regulations, may,

- (a) enter any premises, vessel, boat, car, truck or other conveyance used for the storage, processing, grading, packing, selling or offering for sale, shipping or transporting of any farm product and inspect any farm product found therein;
- (b) stop any conveyance that he believes to contain any farm product and inspect such conveyance and any farm product found therein;
- (c) obtain a sample of any farm product at the expense of the owner for the purpose of making an inspection thereof;
- (d) require the production or furnishing of copies of or extracts from any books, shipping bills, bills of lading or other records relating to farm products. R.S.O. 1950, c. 130, s. 4 (1); 1960, c. 35, s. 3 (1).

(2) For the purpose of inspecting a farm product, the inspector may detain it at the risk of its owner and, after ^{Detention of product for purpose of inspection} detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention by prepaid telegram or such other means as in the circumstances he deems proper. R.S.O. 1950, c. 130, s. 4 (2).

(3) No person shall hinder or obstruct an inspector or a grader in the course of his duties or furnish an inspector or grader with false information or refuse to permit any farm product to be inspected or refuse to furnish an inspector or grader with information. 1960, c. 35, s. 3 (2). ^{Obstruction of inspector or grader}

(4) A person shall, when required by an inspector, produce ^{Production of documents} copies of and extracts from any books, shipping bills, bills of lading and other records relating to any farm product. R.S.O. 1950, c. 130, s. 4 (4).

Detention
of products

7. Any farm product, in respect of which in the opinion of an inspector an offence against this Act or the regulations has been committed, may be placed under detention at the risk and expense of the owner by the inspector until such time as the owner of the farm product complies with this Act and the regulations and, where a person is convicted of an offence in respect of any such farm product, the convicting magistrate may declare such farm product to be forfeited to Her Majesty, whereupon it may be destroyed or otherwise disposed of as the Minister directs. R.S.O. 1950, c. 130, s. 5.

Detention
of package

8. For the purpose of inspecting a package, an inspector may detain it, including any farm product that may be contained in it, at the risk of its owner, and the provisions of this Act relating to the detaining and placing under detention of farm products apply *mutatis mutandis* to packages and any farm products contained therein. R.S.O. 1950, c. 130, s. 6.

Certificate
of inspector
or grader

9. The production by an inspector or a grader of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of the facts stated in the certificate and as conclusive proof of the authority of the inspector or grader to inspect or grade any farm product. 1960, c. 35, s. 4, *amended*.

Offences

10.—(1) Except as provided in subsection 2, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$50 and not more than \$500 for a subsequent offence.

Obstruction
of inspector

(2) Every person who contravenes any of the provisions of subsection 3 of section 6 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$1,000. R.S.O. 1950, c. 130, s. 8, *amended*.

Legal
remedy not
affected

11. No proceedings or conviction under this Act affects the right of any person to any legal remedy to which he would otherwise be entitled. R.S.O. 1950, c. 130, s. 9.

Where
matter com-
plained of
deemed to
have
arisen

12. For the purpose of jurisdiction, in an information or conviction for a contravention of any of the provisions of this Act or the regulations, the matter complained of may be alleged and shall be deemed to have arisen at the place where the farm product was packed, sold, offered, exposed or had in possession for sale or transportation, as the case may be, or at the residence or usual place of residence of the person charged with the contravention. R.S.O. 1950, c. 130, s. 10, *amended*.

CHAPTER 137

The Farm Products Marketing Act**1. In this Act,**Interpre-
tation

- (a) "Board" means the Farm Products Marketing Board;
- (b) "farm product" means animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco, wood, or any class or part of any such product, and such articles of food or drink manufactured or derived in whole or in part from any such product, and such other natural products of agriculture as are designated by the regulations;
- (c) "licence" means a licence provided for under the regulations;
- (d) "local board" means a board constituted under a plan;
- (e) "marketing" means buying, selling and offering for sale, and includes advertising, assembling, financing, packing and shipping for sale or storage and transporting in any manner by any person, and "market" and "marketed" have corresponding meanings;
- (f) "marketing agency" means a marketing agency designated by the Board in the regulations;
- (g) "Minister" means the Minister of Agriculture;
- (h) "plan" means a plan to provide for the marketing or regulating of a farm product that is in force under this Act, and includes a scheme approved under any predecessor of this Act;
- (i) "regulated product" means a farm product in respect of which a plan is in force;
- (j) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 131, s. 1; 1955, c. 21, s. 1; 1957, c. 34, s. 1; 1958, c. 27, s. 1, *amended*.

2. The purpose and intent of this Act is to provide for <sup>Purpose
of Act</sup>
the control and regulation in any or all respects of the market-

ing within the Province of farm products including the prohibition of such marketing in whole or in part. 1956, c. 20, s. 1.

Board
continued

3.—(1) The body corporate known as The Farm Products Marketing Board is continued.

Constitution
of Board

(2) The Board shall consist of one or more persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board to act as chairman.

Allowances
to members

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant Governor in Council determines.

Officers,
clerks, etc.,
appoint-
ment

(5) The Board, subject to the approval of the Lieutenant Governor in Council, may appoint such officers, clerks and employees as it deems necessary, and the remuneration of such officers, clerks and employees shall be determined by the Lieutenant Governor in Council. R.S.O. 1950, c. 131, s. 2.

Authority
of Board

4.—(1) The Board may,

- (a) subject to the regulations, investigate, adjust or otherwise settle any dispute relating to the marketing of a regulated product between producers and persons engaged in marketing or processing the regulated product;
- (b) investigate the cost of producing, processing and marketing any farm product, prices, price spreads, trade practices, methods of financing, management policies and other matters relating to the marketing of farm products;
- (c) require persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the Board or local board;
- (d) require persons engaged in producing or marketing a regulated product to furnish such information relating to the production or marketing of the regulated product as the Board or local board determines;
- (e) appoint persons to inspect the books, records and premises of persons engaged in producing or marketing a regulated product;
- (f) stimulate, increase and improve the marketing of farm products by such means as it deems proper;
- (g) co-operate with a marketing board, a local board or

a marketing agency of any other province for the purpose of marketing any regulated product;

- (h) do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations or any plan. 1957, c. 34, s. 2 (1); 1958, c. 27, s. 2.

(2) Upon an investigation under this section, the Board has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 131, s. 3 (2). Powers of investigation
R.S.O. 1960
c. 323

(3) The Board may delegate to a local board such of its powers under subsection 1 as it deems necessary, and may, at any time, terminate such delegation. Delegation
of powers

(4) The Board may make regulations,

- (a) providing for the filing by each local board and marketing agency with the Board of true copies of, Regulations
respecting
the filing of
records with
the Board

- (i) minutes of all meetings of the local board and the marketing agency,
- (ii) all orders and directions of the local board,
- (iii) all reports of annual operations of the local board and the marketing agency,
- (iv) all annual financial statements and audited reports of the local board and the marketing agency,
- (v) all agreements made between the local board and the marketing agency, and
- (vi) such further statements and reports as the Board requires from the local board or the marketing agency;

(b) providing for,

- (i) the furnishing to producers of a regulated product of copies of the annual statement of operations and the financial report of each local board and marketing agency, and
- (ii) the publication of the annual statement of operations and the financial report of each local board and marketing agency; and

- (c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, reports and statements shall be filed with the Board, furnished to producers or published, as the case may be, under clause a or b. 1955, c. 21, s. 2 (3).

Local board
a body
corporate

(5) Every local board is a body corporate. R.S.O. 1950, c. 131, s. 3 (5).

Petition
for a plan

5.—(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that a plan be established for the marketing or regulating of a farm product or any class or part thereof and where the Board is of the opinion that the group of producers represents 15 per cent of the producers affected by the proposed plan, the Board shall investigate and consider the purposes of the plan and matters relating to the marketing of the farm product. 1958, c. 27, s. 3, *part*.

Plebiscite
to establish
a plan

(2) Notwithstanding subsection 1, if in the opinion of the Board a plan for the marketing or regulating of a farm product or any class or part thereof will be conducive to the more efficient production and marketing of the farm product, the Board may submit to a plebiscite of the producers of the farm product or class or part thereof the question of favour of the plan. 1958, c. 27, s. 3, *part*; 1959, c. 35, s. 1 (1).

Resubmis-
sion to
plebiscite by
producers

(3) Where the Board receives from producers of a regulated product a petition that in the opinion of the Board bears the signatures of at least 15 per cent of the producers under the plan asking that the plan be revoked, the Board may submit to a plebiscite of the producers of the regulated product the question of favour of the plan, but a petition need not be considered by the Board in respect of a plan that was established within the preceding year or a plan on which a plebiscite of the producers was taken on a like question within the preceding two years. 1958, c. 27, s. 3, *part*; 1959, c. 35, s. 1 (2).

Submission
or resubmis-
sion to
plebiscite
by Board

(4) Where in the opinion of the Board an existing plan should be submitted or resubmitted to a plebiscite, it may submit or resubmit to a plebiscite of the producers of the regulated product the question of favour of the plan. 1959, c. 35, s. 1 (3).

Plebiscite
on
amendment
of the
purposes
of a plan

(5) Where the Board receives from a local board a request that amendment be made of the purposes of the plan under which the local board is established, the Board may submit to a plebiscite of the producers of the regulated product the question of favour of the proposed purposes. 1958, c. 27, s. 3, *part*.

Regulations
for taking
of
plebiscite

(6) Where the Board submits or resubmits to a plebiscite of the producers of a farm product or class or part thereof, or the producers of a regulated product, as the case may be, the question of favour of a proposed plan or an existing plan or an amendment of the purposes of an existing plan, the Board may make regulations,

- (a) prescribing the manner of taking votes in the plebiscite;
 - (b) defining "producer" for the purpose of the plebiscite;
 - (c) providing for the registration of producers and the preparation and revision of voters' lists;
 - (d) providing for the appointment of revising officers and deputy returning officers and prescribing their powers to add names to or strike names from the voters' lists;
 - (e) providing for appeals to the Board from any decision of a revising officer;
 - (f) providing that a person shall not be entitled to vote in the plebiscite unless his name appears on the voters' list as revised;
 - (g) providing for the taking of the plebiscite, including the times and places of voting, the appointment of persons for the purpose of the plebiscite and the notices to be given to producers;
 - (h) respecting any matter that the Board deems necessary or advisable for the taking of the plebiscite.
- 1958, c. 27, s. 3, *part*; 1959, c. 35, s. 1 (4, 5).

(7) Where a plebiscite is taken under subsection 2 or 5 and the percentage of votes in favour of the question submitted is not less than the percentage of votes of persons voting or eligible to vote prescribed in the regulations, the Board may recommend that the proposed plan be established or the existing plan be amended, as the case may be.

Result of plebiscite to establish or amend a plan

(8) Where a plebiscite is taken under subsection 3 or 4 and the percentage of votes in favour of the existing plan is less than the percentage of votes of persons voting or eligible to vote prescribed in the regulations, the Board may recommend that the existing plan be revoked.

Result of plebiscite on re-submission of plan

(9) Where the Board submits to a plebiscite of the producers of a farm product or a regulated product the question of favour of a proposed plan or an existing plan or an amendment of the purposes of an existing plan, the Board may at the same time also submit any question relating to the controlling or regulating of the marketing of any farm product or regulated product.

Additional questions may be submitted to plebiscite

(10) No plebiscite shall be declared invalid by reason of,

- (a) any irregularity on the part of the returning officer or a deputy returning officer or in any of the proceedings in respect of the plebiscite;

Plebiscite not invalid for any irregularity, etc.

- (b) failure to hold a poll at any place appointed for holding a poll;
- (c) non-compliance with the provisions of this Act or the regulations in respect of the plebiscite as to the taking of the poll or the counting of the votes, or as to limitations of time; or
- (d) any mistake in the use of the forms prescribed in the regulations in respect of the plebiscite,

if it appears that the irregularity, failure, non-compliance or mistake did not affect the result of the plebiscite.

Irregularity
in voters'
list not to
invalidate
plebiscite

(11) Any irregularity in the preparation or revision of the voters' list for a plebiscite is not a ground for questioning the validity of the plebiscite and the persons whose names appear on the voters' list as finally revised shall be deemed to be the producers entitled to vote in the plebiscite.

Recount of
ballots, etc.

(12) The Board may in such manner as it deems proper provide for a recount of the ballots cast in any of the polling districts for a plebiscite and may provide for a plebiscite to be resubmitted on the same question or questions in any or all polling districts.

Voting
documents
to be
retained

(13) The Board shall retain in its possession any documents in respect of a plebiscite for at least one year after the last day of voting in the plebiscite. 1959, c. 35, s. 1 (6).

Regulations
re plans and
local boards

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations,

- (a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario or any part thereof of any farm product and constituting local boards to administer such plans;
- (b) defining producer or classes of producers for the purpose of any plan;
- (c) giving to any local board any or all of the powers that are vested in a co-operative corporation that is under Part V of *The Corporations Act* as amended from time to time, and providing that in the exercise of such powers the members of the local board shall be deemed to be the shareholders and the directors thereof;
- (d) prescribing by-laws for regulating the conduct of the affairs of the Board;
- (e) prescribing by-laws for regulating the government of local boards and the conduct of their affairs, but any local board may make by-laws not inconsistent

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c. 71

with this Act, the regulations made under this clause or the regulations made under the plan under which the local board is established as amended from time to time;

- (f) notwithstanding any other Act providing for,
- (i) the carrying out by the Board, or the local board or a trustee, of any or all of the powers of a marketing agency,
 - (ii) the vesting of the assets of a marketing agency in the Board, or the local board or a trustee,
 - (iii) the disposing of any or all of the assets of a marketing agency in such manner as is prescribed,

and, where any regulation made under this clause is in conflict with any by-law of the marketing agency, the regulation prevails;

- (g) dissolving a local board on such terms and conditions as he deems proper and providing for the disposition of its assets. 1958, c. 27, s. 3, *part*; 1959, c. 35, s. 2 (1-3); 1960, c. 36, s. 1.

(2) A plan may apply to all of Ontario or to any area within Ontario and may apply to one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product marketed for a particular purpose, and to any or all persons engaged in producing, marketing or processing one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product marketed for a particular purpose.

(3) The method by which the members of a local board shall be appointed, elected or chosen and the application of the plan shall be set out in the plan under which the local board is established. 1958, c. 27, s. 3, *part*.

(4) The acts of a member or an officer of a local board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and appointment or election. 1959, c. 35, s. 2 (4).

7.—(1) Every person, when requested so to do by an officer of the Board or a local board or by a person appointed by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product, shall in respect of the regulated product produce such books and records and permit inspection thereof and supply extracts therefrom and permit inspection of such premises.

Obstruction
of officers

(2) No person shall hinder or obstruct an officer of the Board or of a local board or a person appointed by the Board or by a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Certificate
of
appointment

(3) The production by any person of a certificate of his appointment by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product purporting to be signed by the chairman and secretary of the Board or the local board shall be accepted by any person engaged in the producing or marketing of the regulated product as *prima facie* proof of such appointment. 1957, c. 34, s. 4, *part*.

Regulations

8.—(1) The Board may make regulations generally or with respect to any regulated product marketed locally within Ontario,

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product;
2. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence;
3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the Board deems proper;
4. providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the the Board or local board or marketing agency;
5. providing for the right of any person whose licence was refused, suspended or revoked or was not renewed to show cause why such licence should not be refused, suspended or revoked or why such renewal should not be refused, as the case may be;
6. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing the regulated product and the collecting of the licence fees and the recovering

of such licence fees by suit in a court of competent jurisdiction;

7. requiring any person who receives a regulated product from a producer to deduct from the moneys payable to the producer any licence fees payable by the producer to the local board or marketing agency, as the case may be, and to forward such licence fees to the local board or marketing agency;
8. prescribing the form of licences;
9. providing for the exemption from the regulations under any plan of any class, variety, grade or size of regulated product, or any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product;
10. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and providing for the administration and disposition of any moneys or securities so furnished;
11. providing for the fixing and allotment of quotas for any regulated product and for the marketing of any regulated product on a quota basis and for prohibiting any producer from marketing any of the regulated product in excess of the quota allotted to such producer;
12. providing for the regulating and the controlling of the marketing of any regulated product, including the times and places at which the regulated product may be marketed;
13. authorizing a local board to use any class of licence fees and other moneys payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing this Act and the regulations and carrying out the purposes of the plan under which the local board is established;
14. notwithstanding any other Act, providing that no local board or marketing agency shall make grants or other like payments of money to any person or association or body of persons without the approval of the Board;
15. authorizing a local board to establish a fund in connection with any plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 13;

16. providing for the establishment in connection with any plan, negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters:
 - (i) minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
 - (ii) terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,
 - (iii) any charges, costs or expenses relating to the production or marketing of the regulated product;
17. providing for the arbitration by a board of any matter not adopted or settled by agreement under paragraph 16;
18. providing for the arbitration by an arbitrator or by a board of any dispute arising out of any agreement adopted or settled under paragraph 16 or any award made under paragraph 17;
19. determining the constitution of such negotiating agencies and boards of arbitration and regulating the practice and procedure of such agencies and boards;
20. authorizing any local board or marketing agency to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product locally within Ontario and requiring such local board or marketing agency, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade and size of the regulated product delivered by him, and to make an initial payment on delivery of the regulated product and subsequent payments until all of the remainder of the moneys received from the sale is distributed to the producers;
21. authorizing any local board to require the price or prices payable or owing to the producers for the regulated product to be paid to or through the local board;
22. except where a marketing agency has been designated for the marketing of a regulated product, authorizing

any local board to prohibit the marketing of any class, variety, grade or size of any regulated product;

23. providing for the carrying out of any plan declared by the Lieutenant Governor in Council to be in force;
24. designating as a farm product any article of food or drink manufactured or derived in whole or in part from a farm product or any natural product of agriculture;
25. prescribing the percentages of votes required under section 5;
26. designating a marketing agency by or through which a regulated product shall be marketed and requiring the regulated product to be marketed by or through such marketing agency;
27. providing for the revocation of the appointment of a marketing agency designated under paragraph 26;
28. providing for the holding of public hearings on matters respecting a vote of producers before the adoption or amendment or revocation of a plan is recommended by the Board under section 5, and respecting notices, advertising, procedures, reports and other matters relating to the public hearings;
29. providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any order or direction of the Board or a local board or a marketing agency; and
30. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1957, c. 34, s. 4, *part*; 1958, c. 27, s. 4; 1959, c. 35, s. 3 (1);, 1960, c. 36, s. 2 (1-3).

(2) Every agreement made under paragraph 16 of subsection 1 and every award made under paragraph 17 or 18 of subsection 1 and every re-negotiated agreement or award made under clause *b* of this subsection,

Agreements
and awards

- (a) shall be filed with the Board forthwith after the making thereof and the Board may by order declare the agreement or award or re-negotiated agreement or award or part thereof to come into force on the day it is so filed or on such later day as is named in the agreement or award or re-negotiated agree-

ment or award, as the case may be, and, subject to clause *b*, shall remain in force for one year or for such period as is provided in the agreement or award or re-negotiated agreement or award; and

- (*b*) may at any time upon an order of the Board be re-negotiated in whole or in part in such manner as the Board determines. 1959, c. 35, s. 3 (3).

Where
R.S.O. 1960,
o. 349, not
to apply

(3) *The Regulations Act* does not apply to any order of the Board made under subsection 2.

Regulations
may be
limited

(4) Any regulation made under this section may be limited as to time and place.

Delegation
of powers
to local
board

(5) The Board may delegate to a local board such of its powers under paragraphs 1 to 12 of subsection 1 as it deems necessary, and may at any time terminate such delegation. 1957, c. 34, s. 4, *part*.

Regulations
vesting
powers in
marketing
agency

9.—(1) The Board may make regulations vesting in any marketing agency any powers that the Board deems necessary or advisable to enable such marketing agency effectively to promote, regulate and control the marketing of the regulated product locally within Ontario, and without limiting the generality of the foregoing, may make regulations,

- (*a*) vesting in any marketing agency designated under paragraph 26 of subsection 1 of section 8 any or all of the following powers:
- (i) to direct and control, by order or direction, either as principal or agent, the marketing of the regulated product, including the times and places at which the regulated product may be marketed,
 - (ii) to determine the quantity of each class, variety, grade and size of the regulated product that shall be marketed by each producer,
 - (iii) to prohibit the marketing of any class, variety, grade or size of the regulated product,
 - (iv) to determine from time to time the price or prices that shall be paid to producers for the regulated product or any class, variety, grade or size of the regulated product and to determine different prices for different parts of Ontario,
 - (v) to impose such service charges as are fixed from time to time by the local board for the marketing of the regulated product,

- (vi) to require the price or prices payable or owing to the producer for the regulated product to be paid to or through the marketing agency,
- (vii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product owing to the producer,
- (viii) to purchase or otherwise acquire such quantity or quantities of the regulated product as the marketing agency deems advisable;
- (b) subject to subsection 4, vesting in any local board power to fix from time to time the service charges to be imposed by its marketing agency for the marketing of the regulated product;
- (c) vesting in any marketing agency power to pay to the local board from service charges imposed under subclause v of clause *a* its expenses in carrying out the purposes of the plan;
- (d) vesting in any marketing agency power to pay to the producers the price or prices for the regulated product less service charges imposed under subclause v of clause *a* and to fix the times at which or within which such payments shall be made;
- (e) providing for statements to be given by any marketing agency to producers showing the class, variety, grade or size and the number or quantity of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by it. 1957, c. 34, s. 4, *part*; 1959, c. 35, s. 4 (1); 1960, c. 36, s. 3 (1-4).

(2) Any powers exercisable by a marketing agency may be limited as to time and place. 1959, c. 35, s. 4 (2). Powers may be limited

(3) The Board may from time to time with respect to any regulated product require the local board to furnish any information that the Board deems necessary to determine the operations of the local board or its marketing agency and, without limiting the generality of the foregoing, may require the local board to furnish particulars of, Board may require information

- (a) the service charges fixed under clause *b* of subsection 1;
- (b) the purposes for which the service charges are used and the amounts expended for each purpose;
- (c) any proposed changes in the amounts of the service charges;

- (d) operating deficits or profits and reserves of the local board or the marketing agency;
- (e) property leased, owned or otherwise acquired or used by the local board or the marketing agency; and
- (f) the purposes of the plan in effect for the marketing of the regulated product.

Maximum
service
charges

(4) The Board may by order in respect of any regulated product require the local board to fix the service charges under clause *b* of subsection 1 at such amounts, or at amounts not exceeding such amounts, as the Board deems proper.

Board may
require
information

(5) The Board may require any local board,

- (a) to furnish to the Board particulars of any proposed change in the purposes of the plan at least ten days before the proposed change becomes effective;
- (b) to carry out any purpose of the plan that the Board deems necessary or advisable;
- (c) to vary any purpose of the plan as the Board deems advisable; and
- (d) to cease or desist from the carrying out of any purpose or proposed purpose of the plan that the Board deems unnecessary or inadvisable.

Regulations
to give local
board power
of market-
ing agency

(6) Except where a marketing agency is designated under paragraph 26 of subsection 1 of section 8, the Board may make regulations with respect to any regulated product vesting in the local board any or all of the powers mentioned in clauses *a*, *d* and *e* of subsection 1.

Marketing
of regulated
product by
local board

(7) Where the Board makes regulations under subsection 6, it may provide that the regulated product shall be marketed by or through the local board. 1960, c. 36, s. 3 (5).

Limitation
of powers
of local
board

10. Where the Board delegates to a local board any of its powers or vests in a marketing agency powers to promote, regulate and control the marketing of a regulated product, the Board may, at any time,

- (a) limit the powers of the local board or the marketing agency in any or all respects; and
- (b) revoke any regulation, order or direction of the local board or marketing agency made or purporting to be made under such powers. 1959, c. 35, s. 5.

Administra-
tion of Act

11. The moneys required for the administration of this Act shall be paid out of the sums appropriated therefor by the Legislature. R.S.O. 1950, c. 131, s. 8.

12.—(1) Where an association of producers of a farm product, other than a regulated product, that is incorporated under *The Agricultural Associations Act* or *The Corporations Act* or any predecessor of either of such Acts and that has as objects the stimulating, increasing and improving of the marketing locally within Ontario of the farm product by advertising, education, research or other means, requests for the purpose of defraying the expenses of the association in the carrying out of its objects that every producer of the farm product be required to pay fees to the association, the Board may, if it is satisfied that 60 per cent of the producers are in favour, make an order,

Establishment of fund for producers' association
R.S.O. 1960, cc. 6, 71

- (a) requiring producers so engaged in the production of the farm product to pay fees to the association;
- (b) designating the amounts of fees, and requiring payment of the fees in different amounts or in instalments;
- (c) requiring persons who buy the farm product from a producer to deduct the amounts of the fees payable by such producer from moneys payable to the producer and to pay such amounts to the association;
- (d) authorizing the association to use the fees for the purposes of defraying the expenses of the association in the carrying out of its objects;
- (e) requiring the association to furnish to the Board such information and financial statements as the Board determines.

(2) Any order under subsection 1 may be limited as to time and place and may exempt from the order any person or class of persons or any class, variety, grade or size of the farm product and may fix fees of different amounts for different classes, varieties, grades or sizes of the farm product.

Limitations and exemptions

(3) Where an order has been made under subsection 1, the association may appoint any person to inspect the books, records and premises of persons who produce or buy the farm product and section 7 applies *mutatis mutandis* in respect of a person so appointed. 1957, c. 34, s. 5, *part*.

Inspection of records

13. Every person who fails to comply with or contravenes any of the provisions of this Act, or of the regulations, or of any plan, or of any order or direction of the Board or any local board or any marketing agency, or of any agreement or award or re-negotiated agreement or award filed with the Board, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$50 and for

Offences

a subsequent offence to a fine of not less than \$50 and not more than \$500. 1959, c. 35, s. 6.

Failure
to pay
minimum
price

14.—(1) Every person who fails to pay at least the minimum price established for a regulated product in an agreement or award filed with the Board is, in addition to the fine provided for in section 13, liable to a penalty of an amount equal to the amount of such minimum price less any amount paid by such person as payment in full or in part for such regulated product.

Disposition
of penalty

(2) Every penalty imposed under subsection 1 shall be paid to the local board and the local board shall,

- (a) distribute the money so paid *pro rata* among the persons who failed to receive at least the minimum price; or
- (b) use the money to stimulate, increase and improve the marketing of the regulated product. 1957, c. 34, s. 5, *part*.

Moneys
received
by Board

15. All moneys received by the Board shall be deposited to the credit of the Consolidated Revenue Fund. 1959, c. 35, s. 7.

Evidence

16. In an action or prosecution under this Act where production of an agreement, award, order, direction, rule, resolution, determination or minute of the Board, a local board or a marketing agency is required, any document purporting to be a copy of such agreement, award, order, direction, rule, resolution, determination or minute, certified to be a true copy thereof by the chairman or secretary of the Board, the local board or marketing agency, as the case may be, is admissible in evidence as *prima facie* proof of the making and the text thereof without production of the original document and without proof of the signature of the person purporting to have certified it. 1957, c. 34, s. 5, *part, amended*.

Onus in
action or
prosecution

17.—(1) In an action or prosecution under this Act, the onus is upon the defendant or the accused, as the case may be, to prove that the product in respect of which the action or prosecution is brought is not a regulated product within the meaning of this Act.

Evidence
applicable
R.S.C. 1952,
c. 6

(2) In a prosecution under the *Agricultural Products Marketing Act* (Canada), the magistrate, if he finds that the offence is not proved under that Act but the evidence establishes an offence of a similar kind in relation to the control or regulation of the marketing of the regulated product locally within Ontario under section 13 or 14, may convict the accused under this Act notwithstanding that no information has been laid under this Act. 1957, c. 34, s. 5, *part*.

CHAPTER 138

The Fatal Accidents Act

1. In this Act,

Interpretation

- (a) "child" includes son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted child, and a person to whom the deceased stood *in loco parentis*;
- (b) "parent" includes father, mother, grandfather, grandmother, stepfather, stepmother, a person who adopted a child, and a person who stood *in loco parentis* to the deceased. R.S.O. 1950, c. 132, s. 1.

2. Where the death of a person has been caused by such wrongful act, neglect or default, as, if death had not ensued, would have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable, if death had not ensued, is liable to an action for damages, notwithstanding the death of the person injured, and although the death was caused under circumstances amounting in law to culpable homicide. R.S.O. 1950, c. 132, s. 2.

Liability for damages where death caused by wrongful act, neglect, or default

3.—(1) Every action brought under this Act is for the benefit of the wife, husband, parent and child of the person whose death was so caused, and, except as hereinafter provided, shall be brought by and in the name of the executor or administrator of the deceased, and in every such action such damages may be awarded as are proportioned to the injury resulting from the death to the persons respectively for whom and for whose benefit the action is brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the above-mentioned persons in such shares as are determined at the trial. R.S.O. 1950, c. 132, s. 3 (1).

For whose benefit and in whose name action to be brought

(2) In an action brought under this Act where funeral expenses have been incurred by the parties for whose benefit the action is brought, damages may be awarded not exceeding \$300 for the necessary expenses of the burial of the deceased, except that, where the body of the deceased is transported a considerable distance for burial, further damages may be awarded for the necessary extra expenses of burial thus entailed. 1959, c. 36, s. 1.

Funeral expenses

Assessment
of damages,
insurance
premiums

(3) In assessing the damages in an action brought under this Act there shall not be taken into account any sum paid or payable on the death of the deceased or any future premiums payable under a contract of insurance. R.S.O. 1950, c. 132, s. 3 (3).

How money
may be paid
into court

4. The defendant may pay into court one sum of money as compensation for his wrongful act, neglect or default, to all persons entitled to compensation without specifying the shares into which it is to be divided. R.S.O. 1950, c. 132, s. 4.

One action
only lies
for the same
cause

5. Not more than one action lies for and in respect of the same subject matter of complaint, and every such action shall be commenced within twelve months after the death of the deceased and not afterwards. R.S.O. 1950, c. 132, s. 5.

Particulars
of bene-
ficiaries

6.—(1) The plaintiff shall, in his statement of claim, set forth the persons for whom and on whose behalf the action is brought.

Proof as
to persons
entitled

(2) There shall be filed with the statement of claim an affidavit by the plaintiff in which he shall state that to the best of his knowledge, information and belief the persons on whose behalf the action is brought as set forth in the statement of claim are the only persons entitled or who claim to be entitled to the benefit thereof.

Dispensing
with proof

(3) The court in which the action is brought, if of opinion that there is a sufficient reason for doing so, may dispense with the filing of the affidavit. R.S.O. 1950, c. 132, s. 6, *amended*.

When action
may be
brought by
persons
beneficially
interested

7.—(1) If there is no executor or administrator of the deceased, or there being such executor or administrator, no such action is, within six months after the death of the deceased, brought by such executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by such executor or administrator.

Regulations
and pro-
cedure in
such case

(2) Every action so brought is for the benefit of the same persons and is subject to the same regulations and procedure, as nearly as may be, as if it were brought by such executor or administrator. R.S.O. 1950, c. 132, s. 7.

Apportion-
ment

8.—(1) Where the compensation has not been otherwise apportioned, a judge in chambers may apportion it among the persons entitled.

When pay-
ment may
be
postponed

(2) The judge may in his discretion postpone the distribution of money to which infants are entitled and may direct payment from the undivided fund. R.S.O. 1950, c. 132, s. 8.

9. Where actions are brought by or for the benefit of two or more persons claiming to be entitled, as wife, husband, parent or child of the deceased, the court in which the actions or either of them are pending may make such order as it deems just for the determination not only of the question of the liability of the defendant but of all questions as to the persons entitled under this Act to the damages, if any, that may be recovered. R.S.O. 1950, c. 132, s. 9.

CHAPTER 139

The Female Employees' Fair Remuneration Act**1. In this Act,**Interpre-
tation

- (a) "Director" means the Director of the Fair Employment Practices Branch of the Department of Labour;
- (b) "establishment" means a place of business or the place where an undertaking or a part thereof is carried on;
- (c) "Minister" means the Minister of Labour;
- (d) "pay" means remuneration in any form. 1951, c. 26, s. 1.

2.—(1) No employer and no person acting on his behalf shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment.

Equal pay
for equal
work

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex does not constitute a failure to comply with this section. 1951, c. 26, s. 2.

Saving

3.—(1) The Minister may on the recommendation of the Director designate a conciliation officer to inquire into the complaint of any person that she has been discriminated against contrary to section 2.

Concilia-
tion officer,
appoint-
ment

(2) Every such complaint shall be in writing on the form prescribed by the Director and shall be mailed or delivered to him at his office.

Form of
complaint

(3) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Director. 1951, c. 26, s. 3.

Concilia-
tion officer,
duties

4.—(1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may, on the recommendation of the Director, appoint a commission composed of one or more persons and shall forthwith communicate the names of the members of the commission to the parties

Commission,
appoint-
ment

and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto or otherwise to question the appointment of the commission, or to review, prohibit or restrain any of its proceedings.

powers
R.S.O. 1960,
c. 202

(2) The commission has all the powers of a conciliation board under section 28 of *The Labour Relations Act*.

duties

(3) The commission shall give the parties full opportunity to present evidence and to make submissions and, if it finds that the complaint is supported by the evidence, it shall recommend to the Director the course that ought to be taken with respect to the complaint.

Majority
recommen-
dations to
prevail

(4) If the commission is composed of more than one person, the recommendations of the majority are the recommendations of the commission.

Clarification
of recom-
mendations

(5) After a commission has made its recommendations, the Director may direct it to clarify or amplify any of them and they shall be deemed not to have been received by the Director until they have been so clarified or amplified.

Minister's
order

(6) The Minister, on the recommendation of the Director, may issue whatever order he deems necessary to carry the recommendations of the commission into effect, and the order is final and shall be complied with in accordance with its terms.

Remunera-
tion

(7) Each member of a commission shall be remunerated for his services at the same rate as a commissioner under *The Labour Relations Act*. 1951, c. 26, s. 4.

Offence

5.—(1) Every person who contravenes any provision of this Act or any order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100.

Disposition
of fines

(2) The fines recovered for offences against this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1951, c. 26, s. 5.

Consent to
prosecution

6. No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister on the recommendation of the Director. 1951, c. 26, s. 6.

CHAPTER 140

The Female Refuges Act

1. In this Act,

Interpre-
tation

- (a) "Deputy Minister" means the Deputy Minister of Reform Institutions;
- (b) "industrial refuge" means an institution for the care of females, designated by the Lieutenant Governor in Council as an institution to which females may be committed under this Act;
- (c) "judge" means a judge of the Supreme Court, a judge of a county or district court, a judge of a juvenile and family court, or a magistrate;
- (d) "Minister" means the Minister of Reform Institutions;
- (e) "superintendent" means the matron or other person in charge of an industrial refuge. R.S.O. 1950, c. 134, s. 1; 1958, c. 28, s. 1 (1).

2.—(1) Any female between the ages of fifteen and thirty-five years who is sentenced or liable to be sentenced to imprisonment in a common jail by a judge may be committed to an industrial refuge for an indefinite period not exceeding two years. R.S.O. 1950, c. 134, s. 2 (1).

Commit-
ment of
females to
industrial
refuges

(2) An inmate of a training school for girls may be transferred on a warrant signed by the Deputy Minister to an industrial refuge, there to be detained for the unexpired portion of the term of imprisonment to which she was sentenced or committed. R.S.O. 1950, c. 134, s. 2 (2); 1958, c. 28, s. 2.

Commit-
ment of
inmates of
training
schools

(3) No Protestant female shall be committed or transferred under this Act to a Roman Catholic institution and no Roman Catholic female shall be committed or transferred to a Protestant institution. R.S.O. 1950, c. 134, s. 2 (3).

Religion of
inmates

3.—(1) The Deputy Minister may at any time order the release on parole of any inmate of an industrial refuge upon such conditions as he deems proper. R.S.O. 1950, c. 134, s. 3 (1); 1958, c. 28, s. 2.

Release of
inmates
on parole

Re-taking
inmates on
breach of
conditions
of parole

(2) Every parole granted to an inmate is conditional, whether so expressed or not, and a person who fails to observe the conditions of parole may be taken into custody on a warrant signed by the Deputy Minister and may be returned to the industrial refuge. R.S.O. 1950, c. 134, s. 3 (2); 1958, c. 28, s. 2.

Record of
conduct

(3) A record of the conduct of the inmates of an industrial refuge shall be kept with a view to permitting any inmate to be released on parole by the Deputy Minister. R.S.O. 1950, c. 134, s. 3 (3); 1958, c. 28, s. 2.

Discharge
by order of
Lieutenant
Governor

4. The Lieutenant Governor may at any time order that any person who has been committed or transferred to an industrial refuge be discharged. R.S.O. 1950, c. 134, s. 4.

Transfer
to jail or
reformatory

5. The Deputy Minister may direct the removal of any inmate from an industrial refuge to a common jail or a reformatory for females. R.S.O. 1950, c. 134, s. 5; 1958, c. 28, s. 2, *amended*.

Female
bailiff to
make
transfer

6. Any female bailiff to whom a warrant of the judge or the Deputy Minister is directed may convey to the industrial refuge named in the warrant the person named therein and deliver her to the superintendent. R.S.O. 1950, c. 134, s. 6; 1958, c. 28, s. 2.

Recapture
of escaped
inmates

7. An inmate who escapes from an industrial refuge may be again arrested without a warrant by a constable or other police officer and returned to the refuge. R.S.O. 1950, c. 134, s. 7.

Examination
of persons
in custody

8.—(1) A legally qualified medical practitioner having the care of the health of the inmates of an industrial refuge shall examine all inmates within three days after their admission to the refuge and every six months thereafter. R.S.O. 1950, c. 134, s. 8 (1).

Certificate
to be for-
warded to
Deputy
Minister

(2) The superintendent shall forward to the Deputy Minister the medical practitioner's reports of every inmate within three days after the examination prescribed by subsection 1. R.S.O. 1950, c. 134, s. 8 (2); 1958, c. 28, s. 2.

Appoint-
ment of a
board

9.—(1) The Lieutenant Governor in Council may appoint a board composed of the Deputy Minister and two legally qualified medical practitioners. R.S.O. 1950, c. 134, s. 9 (1); 1958, c. 28, s. 2.

Powers of
the board

(2) The board shall review the findings of the medical practitioner as provided for in section 8 and for such purpose may examine inmates and shall have access to all institutional

records pertaining to the inmates brought before them. R.S.O. 1950, c. 134, s. 9 (2).

(3) The board may make such recommendations to the Deputy Minister with respect to all inmates examined as is deemed proper. R.S.O. 1950, c. 134, s. 9 (3); 1958, c. 28, s. 2. Board may make recommendations

(4) Upon recommendation of the board, the Deputy Minister may direct the removal of any feeble-minded inmate to the Ontario Hospital School, Orillia. R.S.O. 1950, c. 134, s. 9 (4); 1958, c. 28, s. 2. Transfer of patient to hospital school

(5) Upon recommendation of the board, the Deputy Minister may direct the removal of any inmate who is suffering from venereal disease to a hospital for proper treatment. R.S.O. 1950, c. 134, s. 9 (5); 1958, c. 28, s. 2. Transfer of patient to hospital

(6) The corporation of the municipality in which an inmate transferred to a hospital receiving aid was resident at the time of commitment is liable for the maintenance of the inmate and the provisions of *The Public Hospitals Act* with respect to maintenance are applicable thereto. R.S.O. 1950, c. 134, s. 9 (6). Maintenance
R.S.O. 1960, c. 322

10.—(1) No inmate shall be discharged from an industrial refuge if she has syphilitic or other venereal disease or is suffering from any contagious or infectious disease or has any acute or dangerous illness, and she shall remain in the industrial refuge until a legally qualified medical practitioner on the staff of the refuge gives a written certificate that she has sufficiently recovered from the disease or illness to be discharged, and any inmate remaining from any such cause in an industrial refuge shall continue to be under its discipline and control. R.S.O. 1950, c. 134, s. 10 (1). Detention of inmates with certain diseases

(2) The superintendent shall forward to the Deputy Minister the medical practitioner's reports of all persons detained as provided for in subsection 1, once every thirty days. R.S.O. 1950, c. 134, s. 10 (2); 1958, c. 28, s. 2. Report to be forwarded to the Deputy Minister

11. The superintendent shall forward to the Deputy Minister every warrant providing for the admission of an inmate within three days of such admission. R.S.O. 1950, c. 134, s. 11; 1958, c. 28, s. 2. Warrants to be forwarded to Deputy Minister

12. No person shall be admitted to an industrial refuge except on a warrant signed by a judge or on a transfer warrant signed by the Deputy Minister. R.S.O. 1950, c. 134, s. 12; 1958, c. 28, s. 2. No one to be admitted except on warrant

Refuges
to be
houses of
correction
R.S.C. 1952,
c. 217

13. Every industrial refuge is a house of correction for the purpose of the *Prisons and Reformatories Act* (Canada). R.S.O. 1950, c. 134, s. 13.

Regulations

14. All by-laws or regulations of the trustees or other governing body having the control or management of an industrial refuge for the government, management and discipline of the institution or as to maintenance, employment, classification, instruction, correction, punishment and reward of persons detained therein shall be in writing and no such by-law or regulation has force or effect until approved by the Lieutenant Governor in Council upon the report of the Deputy Minister. R.S.O. 1950, c. 134, s. 14; 1958, c. 28, s. 2.

Report and
investiga-
tion of cases
by Parole
Board

15. All commitments made under this Act shall be reported by the judge to the secretary of the Board of Parole within three days from the making of the order and it is the duty of the Board to investigate the case of every person confined under this Act and if deemed proper the Board may recommend to the Deputy Minister the granting of parole to any such person. R.S.O. 1950, c. 134, s. 18; 1958, c. 28, s. 2.

Mainten-
ance

16. The Lieutenant Governor in Council may make regulations providing for the amount payable by a municipality to an industrial refuge for the maintenance of females belonging to the municipality committed to the industrial refuge and providing for the manner of determining to which municipality any female belongs. R.S.O. 1950, c. 134, s. 19.

CHAPTER 141

The Ferries Act

1. Except as otherwise provided in this Act, every grant or licence of ferry shall be by the Lieutenant Governor under the Great Seal and shall not extend for a longer term than seven years at any one time. R.S.O. 1950, c. 135, s. 1.

Issue and
duration of
licences

2. Except as otherwise provided in this Act, no ferry shall be leased by the Crown nor shall any lease thereof be renewed or any licence of ferry be granted by the Crown except by public competition and after notice of the time and place at which tenders will be received for the lease or licence for such ferry inserted at least once in each of four consecutive weeks in *The Ontario Gazette* and in one or more of the newspapers published in the county or district in which the ferry is situate and to persons giving such security as the Lieutenant Governor in Council prescribes, R.S.O. 1950, c. 135, s. 2.

Requisites
to issue

3. Except in the case of municipalities as hereinafter provided, where the limits to which the exclusive privilege of any ferry extends are not already defined, such exclusive privilege shall not be granted for a greater distance than one and one-half miles on each side of the place at which the ferry is usually kept, but nothing herein invalidates or infringes upon any existing grant or right of ferry. R.S.O. 1950, c. 135, s. 3.

Limits for
ferries

4.—(1) Where a ferry is required over any stream or other water and the two shores are in different local municipalities not in the same county, or one shore is in a city or town separated from a county and the other is in another municipality in the same county, the Lieutenant Governor may grant a licence to either of such municipalities exclusively, or to both jointly, or to either of the counties or to both jointly, or to one of the counties jointly with a city or town, as he considers most conducive to the public interest.

Licence for
ferry be-
tween two
municipalities

(2) The licence shall confer the right to establish a ferry from shore to shore on such stream or other water, with such limits and extent as appear advisable to the Lieutenant Governor in Council and are expressed in the licence.

Extent of
right con-
ferred, etc.

Conditions of licence as to motive power and other matters

(3) The licence shall be upon conditions as to the description of craft and motive power to be used and upon such further terms and conditions as the Lieutenant Governor in Council directs, and the terms and conditions shall be expressed in the licence.

Municipalities subletting ferries

(4) The council of the municipality may pass by-laws, not inconsistent with the terms of the licence, for sub-letting the ferry to such person and upon such terms and conditions as the council thinks fit.

Concurrence of municipalities where joint licence

(5) Where a licence is granted to two municipalities jointly, no by-law of the council of one municipality has any force until a by-law has been passed in similar terms, as nearly as may be, by the council of the other municipality.

Application of certain provisions excluded

(6) The provision as to the duration of the licence in section 1 and the provisions of section 2 do not apply to this section. R.S.O. 1950, c. 135, s. 4.

Municipal by-laws to establish, operate and license ferries

5.—(1) The council of any township, town or village may pass by-laws for establishing and for maintaining and operating, and the council of any municipality, other than a county, may pass by-laws for licensing upon such terms and conditions as are deemed proper and for regulating ferries between any two places in the municipality or over any navigable waters in or upon the boundary of the municipality, and for establishing the rates of ferriage to be taken thereon, but no such by-law has effect until approved by the Lieutenant Governor in Council.

Powers of county councils

(2) The council of any county has the like power in regard to ferries between places that are both situate in the county but not in the same local municipality, provided that neither of such places is situate in a city or separated town.

Powers of Lieutenant Governor in Council

(3) Until the council exercises the powers conferred by this section, the Lieutenant Governor in Council may license and regulate such ferries and establish the rates of ferriage to be taken thereon. R.S.O. 1950, c. 135, s. 5.

Granting exclusive privileges

6. The council of any municipality may grant exclusive privileges in any ferry vested in the corporation of the municipality. R.S.O. 1950, c. 135, s. 6.

Right of persons to keep boats at ferry for their own use

7. Any person may keep at a ferry a boat, vessel or other craft for his own private use, or may use, for the accommodation of himself or of his employer, his own or his employer's boat, vessel or craft to cross the stream or other water on which the ferry is situate, but such privilege shall not be used for the purpose of taking, carrying or conveying any other person or property for hire, gain, reward or profit, or hope thereof, or

directly or indirectly to enable any such other person to evade the payment of tolls at the ferry. R.S.O. 1950 c. 135, s. 7.

8. If any person unlawfully interferes with any right or licence of ferry by taking, carrying or conveying at any ferry across the stream or other water on which it is situate any person, cattle, carriage or wares in any boat, vessel or other craft for hire, gain, reward, profit, or hope thereof, or unlawfully does any other act or thing to lessen the tolls and profits of any lessee or licensee of the Crown of any such ferry, the offender is guilty of an offence and on summary conviction is liable to a fine of not more than \$20, to be paid to the person aggrieved. R.S.O. 1950, c. 135, s. 8.

Penalty for interfering with licensed ferryman's rights

CHAPTER 142

The Financial Administration Act**1. In this Act,**Interpre-
tation

- (a) "appropriation" means an authority to pay money out of the Consolidated Revenue Fund;
- (b) "Consolidated Revenue Fund" means the aggregate of all public moneys that are on deposit at the credit of the Treasurer;
- (c) "department" means a department of the Government of Ontario, and includes a board, commission, authority, corporation and any other agency of the Government of Ontario;
- (d) "fiscal agent" means a fiscal agent appointed under section 49;
- (e) "fiscal year" means the period from the 1st day of April in one year to the 31st day of March in the next year;
- (f) "minister" means a member of the Executive Council;
- (g) "money" includes negotiable instruments;
- (h) "money paid to Ontario for a special purpose" means money that is paid to a public officer under or pursuant to a statute, trust, undertaking, agreement or contract and that is to be disbursed for a purpose specified in or pursuant to such statute, trust, undertaking, agreement or contract;
- (i) "negotiable instrument" includes a cheque, draft, traveller's cheque, bill of exchange, money order and any similar instrument;
- (j) "public money" means all money belonging to Ontario received or collected by the Treasurer or by any other public officer or by any person authorized to receive and collect such money and includes,
 - (i) special funds of Ontario and the income and revenue therefrom,
 - (ii) revenues of Ontario,

- (iii) money raised by way of loan by Ontario or received by Ontario through the issue and sale of securities, and
- (iv) money paid to Ontario for a special purpose;
- (k) "public officer" includes a minister and a person employed in a department;
- (l) "registrar" means a registrar appointed under section 49;
- (m) "Treasurer" means the Treasurer of Ontario. 1954, c. 30, s. 1, *revised*.

PART I

ORGANIZATION

Treasury Board, composition

2.—(1) The Treasury Board shall be composed of the Treasurer, who shall be the chairman, and not fewer than four and not more than seven other members of the Executive Council as are designated from time to time by the Lieutenant Governor in Council. 1958, c. 29, s. 1.

Alternate members

(2) The Lieutenant Governor in Council may designate other ministers to serve as alternates in the absence of members of the Treasury Board. 1954, c. 30, s. 2 (2).

Secretary

(3) The Treasury Board shall have a secretary who shall be designated by the Board. 1956, c. 21, s. 1.

Rules of procedure, minutes

(4) The Treasury Board may determine its rules and methods of procedure and shall keep a minute book in which shall be recorded the proceedings of the Board. 1954, c. 30, s. 2 (4).

Duties of Treasury Board

3. The Treasury Board shall act as a committee of the Executive Council on all matters relating to finance, revenues, estimates, expenditures and financial commitments and on any other matter concerning general administrative policy in the public service that is referred to the Board by the Executive Council or on which the Board considers it desirable to report to the Executive Council. 1954, c. 30, s. 3.

Treasury Board may require production of documents

4. The Treasury Board may require from any public officer or any agent of the Crown any account, return, statement, document, report or information that the Board considers necessary for the performance of its duties. 1954, c. 30, s. 4.

5. Subject to the approval of the Lieutenant Governor in Council, the Treasury Board may make regulations, Regulations

- (a) respecting the collection, management and administration of, and accounting for, public money;
- (b) for any purpose necessary for the efficient administration of the public service. 1954, c. 30, s. 5.

6. There shall be a department of the public service called the Treasury Department over which the Treasurer shall preside. 1954, c. 30, s. 6. Treasury
Department

7.—(1) The Treasurer shall manage and control the revenue and expenditure of Ontario and shall supervise, control and direct all matters relating to the financial affairs of Ontario. Duties of
Treasurer

(2) Any power or duty conferred on the Treasurer by this or any other Act may be delegated by him to the Deputy Provincial Treasurer or to any other officer of the Treasury Department who may act for him in his place and stead, and, when the Deputy Provincial Treasurer or such other officer acts in the place and stead of the Treasurer, it shall be presumed conclusively that he acted in accordance with such a delegation. 1954, c. 30, s. 7. Delegation
of powers
and duties of
Treasurer

8.—(1) The Lieutenant Governor in Council may authorize a seal for the Treasurer and prescribe its use on documents. Seal

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction, and when so reproduced has the same force and effect as if manually affixed. 1954, c. 30, s. 8. Mechanical
reproduction
of seal

9.—(1) The Lieutenant Governor in Council shall appoint a Deputy Provincial Treasurer as deputy head of the Treasury Department. 1954, c. 30, s. 9 (1). Deputy
Provincial
Treasurer

(2) The Lieutenant Governor in Council shall appoint a Comptroller of Accounts, a Comptroller of Finances and a Comptroller of Revenue. 1956, c. 21, s. 2. Treasury
Department
officers

10. Under the direction of the Treasurer, the Deputy Provincial Treasurer, Duties of
Deputy
Provincial
Treasurer

- (a) shall supervise the administration and management of all matters for which, by this or any other Act, the Treasurer or the Treasury Department or any officer or employee of the Treasury Department has any responsibility; and
- (b) shall perform such duties as the Treasurer assigns to him. 1954, c. 30, s. 10.

Duties of
Comptroller
of Accounts

11. Under the direction of the Treasurer, the Comptroller of Accounts,

- (a) shall examine the methods of administration and control applied in any department in connection with the accounting of the disbursement of public money and report thereon with his recommendations to the Treasurer and pursuant to such recommendations he may require the adjustment and supervise the operation in each such department of such methods of administration and control as he deems proper or he may provide in any such department accounting and other services in connection with the administration and control of the disbursement of public money; and
- (b) shall perform such duties as the Treasurer assigns to him. 1954, c. 30, s. 11.

Duties of
Comptroller
of Finances

12. Under the direction of the Treasurer, the Comptroller of Finances shall,

- (a) study and advise upon trends in the field of public finance and the effects of the policies of governments on public borrowing;
- (b) advise upon all matters relating to the raising of money under Part IV and to the management of the public debt and sinking funds of Ontario; and
- (c) perform such duties as the Treasurer assigns to him. 1954, c. 30, s. 12.

Duties of
Comptroller
of Revenue

13. Under the direction of the Treasurer, the Comptroller of Revenue,

- (a) shall make in any department any investigation as to the sources and the rates of any tax, fee, revenue or receipt as he deems advisable and report thereon with his recommendations to the Treasurer;
- (b) shall examine the methods of administration and control applied in any department in connection with collection and accounting of public money and report thereon with his recommendations to the Treasurer and pursuant to such recommendations require the adjustment and supervise the operation in each such department of such methods of administration and control as he deems proper or he may provide in any such department accounting and other services in connection with the administration and control of the collection and accounting of public money; and

- (c) shall perform such duties as the Treasurer assigns to him. 1954, c. 30, s. 13.

14. In any case where it is deemed advisable, the Treasurer ^{Joint action} may direct that such duties of the Comptroller of Accounts and the Comptroller of Revenue as he specifies shall be performed jointly. 1954, c. 30, s. 15.

15. Notwithstanding any Act and under the direction of ^{Access to books and records} the Treasurer, the Comptroller of Accounts and the Comptroller of Revenue or either of them is entitled to free access at all convenient times to all files, documents and records relating to the accounting, collection, management and disbursement of public money in any department, and each of them is entitled to require and receive from any public officer such information, reports and explanations as he deems necessary for the proper performance of his duties. 1954, c. 30, s. 16.

16. Under the direction of the Treasurer, the Comptroller of Accounts and the Comptroller of Revenue or either of them ^{Stationing of Treasury Department staff in other departments} may station any person employed in his office in any department to enable him to carry out his duties more effectively, and the department in which such a person is stationed shall provide office accommodation for him. 1954, c. 30, s. 17.

17. Every person who is to examine the accounts or ^{Oath of secrecy} inquire into the affairs of any department pursuant to this Act shall be required to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in that department. 1954, c. 30, s. 18.

18.—(1) There shall be a committee called the Budget ^{Budget Committee} Committee composed of such officers of the Treasury Department and of any other department as the Lieutenant Governor in Council designates from time to time.

(2) Subject to any directions of the Treasury Board, the Budget Committee may appoint from its members a chairman ^{Chairman and secretary} and a secretary, may determine its own rules and methods of procedure and shall keep a minute book in which shall be recorded the proceedings of the Committee.

(3) The Budget Committee, under the direction of the ^{Duties} Treasury Board, shall,

- (a) examine, advise upon and compile the annual and supplementary estimates of revenue, receipts, expenditures and payments;

- (b) inquire into, examine and advise upon the expenditures, the commitments, the prospective expenditures, the revenues and the prospective revenues of each department;
- (c) investigate all matters relating to the receipt, disbursement and payment of public money;
- (d) make suggestions generally with a view to promoting efficiency and economy in any department; and
- (e) perform such services as the Treasury Board assigns to it. 1954, c. 30, s. 19.

PART II

PUBLIC MONEY

Public money to be deposited

19.—(1) All public money shall be deposited to the credit of the Treasurer.

Establishment of bank accounts

(2) The Treasurer shall establish in his name accounts with such banks as he designates for the deposit of public money.

Duty of persons collecting public money

(3) Every person who collects or receives public money shall pay all public money coming into his hands to the credit of the Treasurer through such officers, banks or persons and in such manner as the Treasurer directs and shall keep a record of receipts and deposits thereof in such form and manner as the Comptroller of Revenue directs. 1954, c. 30, s. 20.

Treasurer may purchase securities

20.—(1) The Treasurer, when he deems it advisable for the sound and efficient management of public money or of the public debt or of any sinking fund, may purchase, acquire and hold,

- (a) securities issued by or guaranteed as to principal and interest by Ontario, any other province of Canada, Canada, the United Kingdom, or any of its colonies; and

(b) securities issued by the United States of America, and pay therefor out of the Consolidated Revenue Fund.

Sale of such securities

(2) The Treasurer may sell any securities purchased, acquired or held pursuant to this section and the proceeds of such sales shall be deposited to the credit of the Consolidated Revenue Fund. 1954, c. 30, s. 21.

21.—(1) Where any security, obligation, debenture or covenant, or any interest in real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer by virtue of his office, the security, obligation, debenture or covenant, and any right of action in respect thereto, and all the estate, right and interest of the Treasurer in respect thereof, upon the death, resignation or removal from office of the Treasurer, vests, subject to the same trusts as they were respectively subject to, in the succeeding Treasurer, and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the succeeding Treasurer.

Vesting of securities, etc., in Treasurer and his successors

(2) A security, obligation, debenture, covenant or an interest in real or personal estate, effects and property may be proceeded on in the name of, or assigned, transferred or discharged by, any member of the Executive Council acting under *The Executive Council Act*.

Realizing on securities

R.S.O. 1960, c. 127

(3) This section applies to every security, obligation, debenture or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer, by virtue or on account of his office, and transfers all the interest, rights and estate of the former Treasurer to the Treasurer for the time being to be vested in him by virtue of his office. 1954, c. 30, s. 22.

Application of section

22.—(1) Where a person has an obligation or debt due to the Crown or the Crown has a claim against a person, the Treasurer may, subject to any other Act affecting such obligation, debt or claim, negotiate and accept a settlement in payment and satisfaction of such obligation, debt or claim, or may determine that any such obligation, debt or claim is uncollectable.

Settlement of or determination of uncollectability of debts

(2) The Lieutenant Governor in Council, on the recommendation of the Treasurer, may, if he considers it in the public interest, delete from the accounts any loss incurred in any settlement or determination made under subsection 1.

Deletion of losses

(3) The losses deleted from the accounts during any fiscal year shall be reported in the surplus account for that year. 1954, c. 30, s. 23.

Losses charged to surplus account

23.—(1) The Treasurer may accept from any person gifts or bequests for the permanent endowment of any charitable or educational object in Ontario, and may invest them in such securities as the Lieutenant Governor in Council directs.

Treasurer authorized to accept certain gifts and bequests

(2) The Treasurer shall pay interest upon such gifts or bequests to such persons, at such rate, at such times and

Interest

computed in such manner as the Lieutenant Governor in Council from time to time determines, and such interest is a charge upon and payable out of the Consolidated Revenue Fund. 1954, c. 30, s. 24.

Money received for special purpose

24.—(1) Money received by or on behalf of the Crown for a special purpose and paid into the Consolidated Revenue Fund may, subject to any Act applicable thereto, be paid out of the Consolidated Revenue Fund for that purpose.

Interest

(2) The Treasurer may pay interest upon any money to which subsection 1 applies, at such rate, at such times and computed in such manner as the Lieutenant Governor in Council from time to time determines, and such interest is a charge upon and payable out of the Consolidated Revenue Fund. 1954, c. 30, s. 25.

Recovery of balance of public money

25.—(1) Every person, on the termination of his charge of an account, or, in the case of his death, his representatives, shall forthwith pay over any balance of public money then due to the Crown in respect of such charge to the public officer authorized to receive it.

Idem

(2) Where it appears to the Comptroller of Revenue that an amount of public money has been improperly retained by a person, he shall report the circumstances to the Treasurer. 1954, c. 30, s. 26.

Refunds

26. Where a refund is authorized to be made to a person, such refund shall be paid out of the Consolidated Revenue Fund and charged to the appropriate account. 1954, c. 30, s. 27.

PART III

DISBURSEMENT OF PUBLIC MONEY

Form of payments out of Consolidated Revenue Fund

27.—(1) Every payment out of the Consolidated Revenue Fund shall be made by cheque prepared under the direction of the Comptroller of Accounts and shall be signed by the Treasurer and by the Deputy Provincial Treasurer or such other officer of the Treasury Department as is for the time being authorized by the Treasurer to sign cheques.

Signature

(2) The Treasurer may authorize the use of facsimile signatures on cheques to be affixed thereto by the use of a rubber stamp or by printing, lithographing, engraving or by other mechanical means.

(3) Every cheque that is issued under the direction of the Comptroller of Accounts shall, when paid, be delivered into his custody for examination and reconciliation with the statement of cheques issued. ^{Cancelled cheques}

(4) The Treasurer, with the approval of the Provincial Auditor, may authorize the destruction from time to time of paid and cancelled cheques. ^{Destruction} 1954, c. 30, s. 28.

28. Where a guarantee has been given under the authority of the Legislature by or on behalf of the Crown for the payment of a debt or obligation, any amount required to be paid by the terms of the guarantee may, subject to the Act authorizing the guarantee, be paid out of the Consolidated Revenue Fund. ^{Payment of guarantee} 1954, c. 30, s. 29.

29.—(1) Where an accident happens to any public work or building when the Legislature is not in session and an expenditure for the repair or renewal thereof is urgently required, or where any other matter arises when the Legislature is not in session in respect of which an expenditure not foreseen or provided for by the Legislature is urgently required for the public good, the Treasury Board shall estimate the amount to be required for such expenditure, and the Lieutenant Governor in Council, upon the report of the Treasurer that there is no appropriation for the expenditure and upon the report of the Treasury Board stating its estimate and upon the recommendation of the minister of the department concerned that the expenditure is urgently required, may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the payment of the amount estimated to be required for such expenditure. ^{Special warrants}

(2) A warrant issued under this section shall be deemed to be an appropriation for the fiscal year in which it is issued. ^{Warrant an appropriation} 1954, c. 30, s. 30.

30. Where an appropriation is exhausted or a sufficient amount was not provided and the public interest or the urgent requirements of the public service necessitate further payments, the Treasury Board, upon the report of the minister of the department concerned as to the necessity for further payments and stating the reason why the appropriation is insufficient and the amount estimated to be required and upon the report of the Budget Committee thereon, may make an order authorizing payments to be made against such amount as it deems proper. ^{Treasury Board orders} 1954, c. 30, s. 31.

How public
moneys to
be paid in
certain
circum-
stances

31. If any public money is appropriated by an Act for any purpose or is directed by the judgment of a court or the award of arbitrators or other lawful authority to be paid by the Lieutenant Governor and no other provision is made respecting it, such money is payable under warrant of the Lieutenant Governor, directed to the Treasurer, out of the Consolidated Revenue Fund, and all persons entrusted with the expenditure of any such money or a part thereof shall account for it in such manner and form, with such vouchers, at such periods and to such officer as the Treasurer directs. 1954, c. 30, s. 32.

Allowances
for travel-
ling and
living
expenses

32. The Lieutenant Governor in Council may make regulations fixing the scale of allowances for the travelling and living expenses to be allowed to any person employed in or in connection with any part of the public service. 1954, c. 30, s. 33.

Accountable
advances

33.—(1) On the application of a minister, the Treasurer may authorize the Comptroller of Accounts to make an accountable advance out of the Consolidated Revenue Fund for the purpose of meeting disbursements for travelling expenses or other contingencies or of making payments on account of expenses incurred or to be incurred. 1954, c. 30, s. 34 (1); 1958, c. 29, s. 2.

Idem

(2) If, at the termination of the fiscal year in which an advance was made no accounting or repayment of the advance has been received, such advance shall be repaid or accounted for within thirty days thereafter.

Recovery

(3) Where it appears to the Comptroller of Accounts that an accountable advance or a part thereof has not been repaid or accounted for as required by subsection 2, he shall report the circumstances to the Treasurer. 1954, c. 30, s. 34 (2, 3).

Authority
for pay-
ments of
accounts for
printing,
stationery,
etc.

34. The Treasurer may pay out of the Consolidated Revenue Fund accounts for legislative and departmental printing, paper and stationery and other supplies delivered to the Queen's Printer, but the amount of such deliveries remaining on hand and in the course of distribution shall not exceed in any fiscal year the sum of \$650,000. 1954, c. 30, s. 35; 1957, c. 35, s. 1.

Expenditure
refunds

35. An amount received as a refund or repayment of an expenditure or advance and deposited to the credit of the Treasurer shall be included in the unexpended balance of the appropriation against which it was charged. 1954, c. 30, s. 36.

PART IV

PUBLIC DEBT

36. In this Part, "securities" means securities of Ontario, ^{Interpre-} and includes Ontario Government stock, bonds, debentures, ^{tation} interest bearing and non-interest bearing treasury bills, notes and any other security representing part of the public debt of Ontario. 1954, c. 30, s. 37.

37. No money shall be raised by way of loan by the Crown ^{Loans to be} except under this or any other Act of the Legislature. 1954, ^{authorized} c. 30, s. 38.

38. All money raised by way of loan and the interest ^{Money} thereon and the principal amount of and interest on all ^{raised} securities issued are a charge on and are payable out of the ^{a charge on} Consolidated Revenue ^{Consolidated} Fund. 1954, c. 30, s. 39. ^{Revenue} ^{Fund}

39. Where by this or any other Act authority is given to ^{Raising of} the Lieutenant Governor in Council to raise a sum of money ^{loans, etc.} by way of loan, unless there is a provision to the contrary in the Act by which the authority is given, such sum may, in the discretion of the Lieutenant Governor in Council, be raised in one of the following ways, or partly in one and partly in another or others thereof:

1. By the issue and sale of any class or classes of securities which may be in such form or forms, may be for such separate sums, may bear interest at such rate or rates, may be payable as to principal and interest at such time or times and at such place or places as the Lieutenant Governor in Council deems expedient.
2. By the issue and sale of non-interest bearing treasury bills which may be in such form and for such separate sums and may be payable at such place or places and at such time or times, not later than twelve months after the date thereof, as the Lieutenant Governor in Council deems expedient.
3. By temporary loan or loans, and in any such case, unless the Lieutenant Governor in Council otherwise directs, the sums authorized to be raised by way of temporary loan, or any part thereof, may be raised by way of cheques creating overdrafts having such signatures affixed thereto as provided by section 27 as would make such cheques, if not creating overdrafts, binding on Ontario, and all moneys paid in honouring any such cheque by any

bank upon which such cheque is drawn shall conclusively be deemed to have been raised by the Lieutenant Governor in Council in pursuance of the authorizing Act. 1954, c. 30, s. 40.

Raising
loans for
refunding
purposes

40.—(1) The Lieutenant Governor in Council may raise money by way of loan in such manner and at such times as is deemed expedient by the issue and sale of any class or classes of securities in such amounts as will realize the net sum required for any or all of the following purposes:

1. Payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued under this or any other Act notwithstanding that the issue of securities for such purpose may have the effect of increasing the amount of the public debt or of extending the term of years, if any, fixed by the Act authorizing the raising of the loan or the issue of the securities being paid, refunded or renewed.
2. Payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other obligations, payment whereof is guaranteed or assumed by Ontario.

Effect of
recital in
order

(2) A recital or declaration in the order of the Lieutenant Governor in Council authorizing the issue and sale of securities to the effect that the amount of the securities so authorized is necessary to realize the net sum required to be raised by way of loan is conclusive evidence of that fact. 1954, c. 30, s. 41.

Securities
may be
issued
subject
to call

41. Any securities issued under the authority of this or any other Act heretofore or hereafter passed may be made redeemable in advance of maturity at such time or times and at such price or prices as the Lieutenant Governor in Council provides at the time of the issue thereof. 1954, c. 30, s. 42.

Contracts
and agree-
ments for
the raising
of loans

42. The Lieutenant Governor in Council may authorize the Treasurer to enter into such contracts and agreements relating to the raising of loans or the issue and sale of securities as the Lieutenant Governor in Council approves, but where the Lieutenant Governor in Council authorizes the raising of a loan by the issue and sale of non-interest bearing treasury bills, he may authorize the Treasurer to offer any such treasury bills for sale on a competitive or other basis and upon such terms and conditions, including the date of issue and the date of maturity thereof, as the Treasurer deems expedient and to sell any or all of such treasury bills in such principal amount

or amounts and for such price or prices as the Treasurer accepts. 1954, c. 30, s. 43; 1956, c. 21, s. 4.

43. Securities issued under the authority of this Act may be made payable in the currency or currencies of any country or countries. 1954, c. 30, s. 44. Securities payable in currency

44. Every Act heretofore or hereafter passed that authorizes the borrowing or raising by way of loan of a specific or maximum number of dollars or the issue of securities for a specific or maximum number of dollars in principal amount shall be deemed to authorize, Loans in foreign currencies authorized

- (a) the borrowing or raising by way of loan, in whole or in part, of the same number of dollars of the United States of America or the issue of securities, in whole or in part, for the same number of dollars of the United States of America in principal amount, as the case may be; and
- (b) the borrowing or raising by way of loan, in whole or in part, of an equivalent amount in the currency of any country other than Canada or the United States of America, or the issue of securities, in whole or in part, for an equivalent principal amount in the currency of any country other than Canada or the United States of America, as the case may be, calculated in each case in accordance with the nominal rate of exchange between the Canadian dollar and the currency concerned as quoted by any chartered bank in Canada as of any time on the business day next preceding the date on which the Lieutenant Governor in Council authorizes the raising of the loan or the issue of the securities. 1960, c. 37, s. 1.

45. The Lieutenant Governor in Council may direct that securities, the money invested therein and the interest thereon shall be free from all taxes, succession duties, charges and impositions now or hereafter imposed by Ontario and by any taxing authority thereof or therein. 1954, c. 30, s. 46. Exemption from taxation

46. The Lieutenant Governor in Council may change the form of any part of the debt of Ontario by substituting one security for another, provided that neither the capital of the debt nor the annual charge for interest is thereby increased, except where a security bearing a lower rate of interest is substituted for one bearing a higher rate of interest, in which case only the amount of the capital may be increased by an amount not exceeding the difference between the then present value of the respective securities; but such substitution shall not be made unless the consent of the holder of the Power to change form of debt

security for which another is substituted is obtained, or such security is previously purchased or redeemed by or on account of Ontario, and such substitution may be made by the sale of a security of one class and the purchase of that for which it is desired to substitute it. 1954, c. 30, s. 47.

Securities,
how
executed

47. The Lieutenant Governor in Council may provide for the manner of executing securities, and that the signature of the Treasurer upon securities and the coupons attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced, the securities being in such case countersigned by the Deputy Provincial Treasurer or such officer or officers of the Treasury Department as are appointed for the purpose. 1954, c. 30, s. 48.

Contents
and con-
ditions of
securities

48. The Lieutenant Governor in Council may provide that any securities to be issued shall contain or be subject to such conditions or provisions, including conditions or provisions with respect to the registration and transfer thereof and with respect to the exchange of securities of one form or denomination for securities of a different form or denomination of equivalent aggregate principal amount and bearing the same rate of interest, as he deems expedient. 1954, c. 30, s. 49.

Registrars
and fiscal
agents

49.—(1) The Lieutenant Governor in Council may,

- (a) appoint one or more registrars to perform such services in respect of the registration of securities as he prescribes;
- (b) appoint one or more fiscal agents to perform such services in respect of loans as he prescribes;
- (c) prescribe the duties of registrars and fiscal agents;
- (d) fix the remuneration or compensation of any such registrar or fiscal agent.

Accounting
by fiscal
agents and
registrars

(2) Every registrar and fiscal agent shall as often as required by the Treasurer give to the Treasurer an accounting, in such form and containing such information as the Treasurer prescribes, of all his transactions as registrar or fiscal agent. 1954, c. 30, s. 50.

Officers not
bound to
see to trust

50. No officer or person employed in the inscription, registration, transfer, management or redemption of any securities, or in the payment of any interest thereon, is bound to see to the execution of any trust, expressed or implied, to which such securities are subject, or is liable in any way to any person for anything so done by him. 1954, c. 30, s. 51.

51. In the event of the loss of any securities or interest coupons thereon by a holder thereof, the Treasurer may pay the amount thereof out of the Consolidated Revenue Fund and may take a bond in such amount and in such form as he deems advisable indemnifying Ontario against loss in respect of such payment. 1954, c. 30, s. 52.

Payment
of lost
securities

52. The Lieutenant Governor in Council may provide for the creation and management of a special sinking fund with respect to any issue of securities or of a general sinking fund with respect to such securities as have been or are hereafter issued without provision for a sinking fund with respect to them. 1954, c. 30, s. 53.

Sinking
funds

53. All money required to provide a sinking fund or otherwise required to secure repayment of securities, the remuneration and compensation of registrars and fiscal agents and all costs, expenses and charges incurred in the negotiation or raising of loans or in the issue, redemption, servicing, payment and management of any loan and any securities issued in respect thereof, may be paid out of the Consolidated Revenue Fund. 1954, c. 30, s. 54.

Payment of
loan ex-
penses out of
Consolidated
Revenue
Fund

54. The Treasurer may cancel securities that come into his hands through purchase for sinking fund or otherwise, and upon cancellation such securities cease to be a charge upon the Consolidated Revenue Fund. 1954, c. 30, s. 55.

Power to
cancel
securities
acquired on
sinking fund
account

55.—(1) All securities issued for raising money by way of loan shall contain in the body of each security a statement of the legislative authority under which the loan is authorized, and no security issued after the 1st day of July, 1922, is valid unless such statement of the legislative authority for the particular loan is contained in the body of such security.

Securities
to state
authority

(2) Every advertisement for the sale of such securities shall contain a statement of the legislative authority under which the loan is authorized. 1954, c. 30, s. 56.

Advertise-
ment to
state
authority

56. Nothing in this Act impairs or prejudicially affects the rights of the holder of any securities issued before this Act comes into force. 1954, c. 30, s. 57.

Securities
heretofore
issued

57. The Lieutenant Governor in Council may make such regulations as he deems necessary,

Regulations

- (a) for the management of the public debt;
- (b) for the inscription of any securities;
- (c) for the registration, transfer, exchange, redemption, cancellation and destruction of securities. 1954, c. 30, s. 58

PART V

CIVIL LIABILITY

Notice to
person
failing to
pay over
public
money

58.—(1) Where the Treasurer has reason to believe that a person,

- (a) has received money for the Crown and has not paid it over;
- (b) has received money for which he is accountable to the Crown and has not accounted for it; or
- (c) has in his hands any public money applicable to a purpose and has not applied it to that purpose,

the Treasurer may give notice to such person, or to his personal representative in case of his death, requiring him within such time from the service of the notice as is stated therein, to pay over, account for, or so apply such money, as the case may be, and to transmit to the Treasurer proper vouchers that he has done so.

Service
of notice

(2) The notice may be served by delivering a copy to the person to whom it is addressed or by leaving it for him at his usual place of residence. 1954, c. 30, s. 59 (1, 2).

Proceedings
where notice
not com-
plied with

(3) Where a person fails to comply with the notice given under subsection 1 within the time stated therein, the treasurer may state an account between the Crown and such person showing the amount of the money not paid over, accounted for or applied, as the case may be, and, in the discretion of the Treasurer, charging interest on the whole or any part thereof at the rate of 5 per cent per annum from such date as the Treasurer determines, and in any proceedings for the recovery of such money a copy of the account so stated by the Treasurer, certified by him, is admissible in evidence as *prima facie* proof that the amount stated therein, together with interest, is due and payable to the Crown, without proof of the signature of the Treasurer or his official character, and without further proof thereof, and such amount and interest may be recovered as a debt due to the Crown in any court of competent jurisdiction. 1954, c. 30, s. 59 (3), *revised*.

Unapplied
public
money for
purpose to
be applied
out of Con-
solidated
Revenue
Fund

59. Where a person has received public money to be applied to a purpose and has not so applied it and a notice has been given under subsection 1 of section 58, an equal sum out of the Consolidated Revenue Fund may in the meantime be applied to the purpose to which such sum ought to have been applied. 1954, c. 30, s. 60.

60. Where it appears,

Evidence

- (a) by the books or accounts kept by or in the office of any person employed in the collection or management of the revenue;
- (b) in any accounting by such person; or
- (c) by his written acknowledgment or confession,

that such person has, by virtue of his office or employment, received money belonging to the Crown and has neglected or refused to pay it over to the proper persons at the proper times, an affidavit deposing to such facts, taken by any person having knowledge thereof, is, in any proceedings for the recovery of such money, admissible in evidence as *prima facie* proof of the facts stated therein. 1954, c. 30, s. 61.

61. Where by reason of any malfeasance, nonfeasance or misfeasance by a person employed in collecting or receiving any public money, any sum of money is lost to the Crown, such person is accountable for such sum as if he had collected and received it and it may be recovered from him as if he had collected and received it. 1954, c. 30, s. 62.

Liability
for loss

62. Where in the opinion of the Treasurer a person is indebted to the Crown in any specific sum of money, the Treasurer may authorize the Comptroller of Accounts to retain by way of deduction or set-off the amount of such indebtedness out of any sum of money that may be due and payable by the Crown to such person. 1954, c. 30, s. 63.

Set-off

63. All books, papers, accounts and documents kept or used by, or received or taken into the possession of any person who is or has been employed in connection with the collection, management, disbursement or accounting of public money, by virtue of that employment, shall be deemed to be chattels belonging to the Crown, and all money and valuable securities received or taken into the possession of any such person by virtue of his employment shall be deemed to be money and valuable securities belonging to the Crown. 1954, c. 30, s. 64.

Books, etc.,
property
of the
Crown

64. Nothing in this Act affects any remedy that the Crown by virtue of any other Act or law has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown and in the possession of any person or any remedy that the Crown or any person has against such person or his sureties or against any other person. 1954, c. 30, s. 65.

Nothing in
this Act to
impair other
remedies of
the Crown

CHAPTER 143

The Fines and Forfeitures Act

1. In this Act, "fine" includes all pecuniary fines, penalties and forfeitures. R.S.O. 1950, c. 136, s. 1. Interpretation

2.—(1) Where a fine has been imposed for a contravention of an Act of this Legislature and no other provision is made for its recovery, it is recoverable with costs by a civil action at the suit of the Crown or of any person suing as well for the Crown as for himself before any court of competent jurisdiction upon the evidence of one credible witness other than the person interested. Recovery of fine by action

(2) If no other provision is made and the recovery is at the suit of the Crown, the fine belongs to the Crown, and if at the suit of a private party, then one-half belongs to him and the other half belongs to the Crown. Disposition of fine

(3) Where a fine belongs to the Crown, the Lieutenant Governor in Council may allow any part thereof to any person by whose information or aid it was recovered. R.S.O. 1950, c. 136, s. 2. Allowing part of fine to informants

3. Where the amount of a fine is in the discretion of a court or judge or in case a court or judge has power to impose imprisonment in addition to or in lieu of a fine and no other mode of recovery is prescribed, it may be recovered upon indictment in the Supreme Court or court of general sessions of the peace. R.S.O. 1950, c. 136, s. 3. Recovery of fine by indictment

4. Every fine imposed for a contravention of any statute in force in Ontario and the proceeds of every forfeiture imposed and given to the Crown shall, where the disposal thereof is within the power of the Legislature, and except so far as other provision is made in respect thereto, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 136, s. 4. To whom fine, etc., to be paid

5.—(1) Where a fine is imposed by or under the authority of an Act of the Legislature, the court or judge having cognizance of the proceedings for the recovery thereof may at any time after the commencement thereof remit in whole or Remission of fine by court or judge

in part such fine, whether the money is in whole or in part payable to the Crown or to some person other than the Crown and whether it is recoverable by indictment, information, summary process, action or otherwise.

Magistrates
and justices
of the peace

(2) A magistrate or justice of the peace does not have the authority mentioned in subsection 1. R.S.O. 1950, c. 136, s. 5.

Claimant
of interest
in personal
property
forfeited
to Crown

6.—(1) Where there is a forfeiture of personal property to the Crown, any person who claims an interest in the property forfeited as owner, mortgagee, lien-holder or holder of a similar interest may, upon seven days notice to the Attorney General, apply for an order declaring his interest in the property immediately before forfeiture.

Application
to judge

(2) An application under subsection 1 shall be made within sixty days of the date of forfeiture to a judge of the county or district court of the county or district in which forfeiture was made or in which the property was at the time of forfeiture.

Conditions
of order

(3) On such application, where the claimant establishes to the satisfaction of the judge,

- (a) that he had a *bona fide* interest in the property forfeited to the Crown; and
- (b) that he exercised reasonable care with respect to the person given possession of the property to satisfy himself that the person was not likely to use the property contrary to any Act of this Legislature,

the judge shall make an order declaring the interest of the claimant in the property immediately before forfeiture. 1956, c. 22, s. 1.

Remission
by Lieuten-
ant
Governor in
Council
R.S.O. 1960,
c. 208

7.—(1) The Lieutenant Governor in Council may at any time remit, in whole or in part, any fine mentioned in section 5 unless it was imposed by *The Legislative Assembly Act*, or by some Act respecting the election of members to the Assembly, or is recoverable in respect of any offence committed in connection with any such election.

Relief
against
civil conse-
quences of
conviction

(2) Where a fine is remitted, the Lieutenant Governor in Council may also relieve the offender from any other penalty or forfeiture consequent upon his conviction. R.S.O. 1950, c. 136, s. 6.

Remission
of interest
in personal
property

(3) Upon receipt of an order made under section 6, the Lieutenant Governor in Council may remit, in whole or in part, the interest of the person in whose favour the order was made or afford such other relief as he sees fit. 1956, c. 22, s. 2.

8. Nothing in this Act authorizes the remitting of costs ^{Costs not} incurred up to the time of remitting the penalty or forfeiture. ^{to be} remitted
R.S.O. 1950, c. 136, s. 7.

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CHAPTER 144

The Fire Accidents Act

1. Where, by a statute or municipal by-law, or by a regulation made under a statute or by-law, the owner, proprietor, lessee, occupant, manager or other person owning, occupying or having the control or management of a building is required to provide fire escapes, means of exit, stairways or other structures or any appliance for the safety of inmates or of the public in case of fire, and it is shown in an action brought against such person to recover damages for death occasioned by fire in such building that such requirements or any of them had not been complied with at the time of the fire, it shall be presumed that the non-compliance was the cause of the death. R.S.O. 1950, c. 137, s. 1.

Onus of proof of compliance with requirements as to fire escapes, etc.

CHAPTER 145

The Fire Departments Act

1. In this Act,

Interpre-
tation

- (a) "fire department" means a fire department organized under *The Municipal Act* and equipped with one or more motorized fire pumpers meeting the prescribed standards; R.S.O. 1960,
c. 249
- (b) "Fire Marshal" means the Fire Marshal of Ontario;
- (c) "full-time fire fighter" means a person regularly employed in the fire department on a full-time salaried basis and assigned exclusively to fire protection or fire prevention duties, and includes officers and technicians;
- (d) "population" means the population ascertained from the last revised assessment roll;
- (e) "prescribed standards" means the standards prescribed by the regulations;
- (f) "regulations" means the regulations made under this Act;
- (g) "volunteer fire fighter" means a person who voluntarily acts as a fire fighter for a nominal consideration or honorarium. R.S.O. 1950, c. 138, s. 1.

PART I

2.—(1) In every municipality having a population of not less than 10,000, the full-time fire fighters assigned to fire-fighting duties shall work according to, Hours of
work

- (a) the two-platoon system where the full-time fire fighters are divided into two platoons, the hours of work of which shall be, Two-platoon
system
- (i) for each platoon twenty-four consecutive hours on duty followed immediately by twenty-four consecutive hours off duty, or

- (ii) for one platoon in day-time ten consecutive hours on duty followed immediately by fourteen consecutive hours off duty and for the other platoon in night-time fourteen consecutive hours on duty followed immediately by ten consecutive hours off duty,

and the platoons shall alternate at least every two weeks from night work to day work and vice versa;

Three-platoon system

- (b) the three-platoon system where the full-time fire fighters are divided into three platoons, the hours of work of which shall be eight consecutive hours on duty followed immediately by sixteen consecutive hours off duty, and the platoons shall rotate in their periods of duty and time off as may be arranged for the purpose of changing shifts at least every two weeks; or

Alternative systems

- (c) any other system of platoons or hours of work under which the maximum hours of work or hours on duty are not more than fifty-six hours on the average in any work week. R.S.O. 1950, c. 138, s. 2 (1); 1951, c. 27, s. 1 (1).

Other personnel

- (2) Full-time fire fighters assigned to other than fire-fighting duties shall work such hours as are determined, but in no case shall such hours of work exceed the average work week of the other full-time fire fighters. R.S.O. 1950, c. 138, s. 2 (2).

Maximum hours

- (3) No full-time fire fighter shall be required to be on duty more than fifty-six hours on the average in any work week. R.S.O. 1950, c. 138, s. 2 (3); 1951, c. 27, s. 1 (2).

Weekly day off duty

- (4) Every full-time fire fighter shall be off duty for one full day of twenty-four hours in every calendar week, but where a two-platoon system or a three-platoon system is in operation, the twenty-four hours release at the change of platoons shall not be regarded as a day off duty for the purposes of this section.

Time off duty

- (5) Nothing in this Act prohibits any municipality from granting the full-time fire fighters more than one day off duty in every calendar week.

Free from calls

- (6) The hours off duty of full-time fire fighters shall be free from fire department duties or calls. R.S.O. 1950, c. 138, s. 2 (4-6).

Recall in emergency

- (7) Notwithstanding this section, in the case of a serious emergency requiring the services of every full-time fire fighter, the chief or other officer in charge of the fire department in his discretion may recall to duty full-time fire fighters who are not on duty. R.S.O. 1950, c. 138, s. 2 (7); 1958, c. 30, s. 1.

3. No deduction shall be made from the pay or the holidays of the full-time fire fighters by reason of this Act. R.S.O. 1950, c. 138, s. 3. Act not to affect pay or holidays

4. A full-time fire fighter shall not be discharged without being afforded the opportunity of a hearing before the municipal council or a committee thereof designated by the council if he makes a written request for such hearing within seven days after he receives notice of his proposed discharge. 1956, c. 23, s. 1. Right of hearing before discharge

5.—(1) When requested in writing by a majority of the full-time fire fighters, the council of the municipality shall within 120 days after receipt of the request commence to bargain in good faith with a bargaining committee of the full-time fire fighters for the purpose of defining, determining and providing for remuneration, pensions or working conditions of the full-time fire fighters other than the chief of the fire department. R.S.O. 1950, c. 138, s. 4 (1); 1956, c. 23, s. 2 (1). Bargaining

(2) In subsection 1, "pensions" includes any pension plan or payment authorized by paragraph 59 of section 377 of *The Municipal Act*. 1956, c. 23, s. 2 (2). Interpretation R.S.O. 1960, c. 249

(3) Where not less than 50 per cent of the full-time fire fighters belong to a trade union, any request under subsection 1 shall be made by the union. Trade union

(4) The members of the bargaining committee shall be full-time fire fighters, but, where not less than 50 per cent of the full-time fire fighters belong to a trade union, the bargaining committee may, at all meetings held with the council of the municipality or any committee thereof for the purpose of bargaining, be accompanied by, Affiliated bodies

(a) where the trade union is affiliated with a provincial body, one member of the provincial body; and

(b) where the trade union is affiliated with an international body, one member of the international body,

each of whom shall attend in an advisory capacity only.

(5) When the request involves pensions under a pension plan established or to be established under *The Municipal Act*, notice of such request shall be given to the Department of Municipal Affairs which may determine the maximum pension benefits that may be included in any agreement, decision or award with respect to such pension plan. R.S.O. 1950, c. 138, s. 4 (2-4). Pension plans under R.S.O. 1960, c. 249

6.—(1) Where, after bargaining under section 5, the council of the municipality or the bargaining committee is satisfied Board of arbitration

that an agreement cannot be reached, it may by notice in writing to the bargaining committee or the council, as the case may be, require all matters in dispute to be referred to a board of arbitration of three members, in which case the council and the bargaining committee shall each appoint a member and the third member, who shall be the chairman, shall be appointed by the two members so appointed. R.S.O. 1950, c. 138, s. 5 (1).

Failure to
appoint
member

(2) Where either party fails to appoint a member of the board of arbitration within thirty days, or having appointed a person who is unable or unwilling to act, fails to appoint another member within thirty days, the Attorney General may, upon the written request of the other party, appoint a member in lieu thereof. R.S.O. 1950, c. 138, s. 5 (2); 1956, c. 23, s. 3 (1).

Failure to
appoint
chairman

(3) Where the two members of the board of arbitration appointed by the parties fail, within five days of the appointment of the one last appointed, to agree upon a third member, the Attorney General may, upon notice in writing of such failure given to him by either of them or by either of the parties, appoint the third member. R.S.O. 1950, c. 138, s. 5 (3).

Commence-
ment and
termination
of arbitra-
tion
proceedings

(4) The board of arbitration shall commence the arbitration proceedings within thirty days after it is constituted and shall deliver the decision or award within sixty days after the commencement of the arbitration proceedings.

Extension
of periods

(5) Any of the periods mentioned in this section may be extended at any time by agreement of the parties or by the Attorney General. 1956, c. 23, s. 3 (2).

Decision

(6) Where upon an arbitration, a majority of the members of the board of arbitration fail to agree upon any matter, the decision of the chairman upon such matter shall be deemed to be the decision of the board of arbitration.

Costs

(7) Each party shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. R.S.O. 1950, c. 138, s. 5 (4, 5).

Agreements,
etc., to be in
writing and
binding on
the parties

7.—(1) Every agreement under section 5 and every decision or award under section 6 shall be in writing and is binding upon the municipality and the full-time fire fighters. 1958, c. 30, s. 2 (1).

Duration of
agreements,
etc.

(2) Every agreement, decision or award remains in effect until the end of the year in which it comes into effect and thereafter remains in effect until replaced by a new agreement, decision or award. R.S.O. 1950, c. 138, s. 6 (2).

(3) Notwithstanding subsection 2, the parties to an agreement may provide therein or at any time before a decision or award is made with respect thereto that the agreement and any such decision or award shall remain in effect until the end of the year next following the year in which it comes into effect, in which case it remains in effect for such period and thereafter remains in effect until replaced by a new agreement, decision or award. 1958, c. 30, s. 2 (2). ^{Idem}

(4) Either party to collective bargaining that has resulted in an agreement, decision or award may proceed under sections 5 and 6 at any time for a new agreement, decision or award. R.S.O. 1950, c. 138, s. 6 (3). ^{New agreements, etc.}

(5) Where a difference arises between the parties relating to the interpretation, application or administration of an agreement made under section 5 or of a decision or award of a board of arbitration made under section 6, or where an allegation is made that the agreement or award has been violated, either of the parties may, after exhausting any grievance procedure established by the agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration, and if the recipient of the notice and the party desiring the arbitration do not within ten days agree upon a single arbitrator, the appointment of a single arbitrator shall be made by the Attorney General upon the request of either party, and the arbitrator shall hear and determine the difference or allegation and shall issue a decision and such decision is final and binding upon the parties. 1955, c. 22, s. 1. ^{Single arbitrator}

8.—(1) An agreement, decision or award has effect upon the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures incurred in the agreement, decision or award, whether such day is before or after the date of the agreement, decision or award, unless another day is named in the agreement, decision or award in lieu thereof. ^{Agreement, decision or award, when to have effect}

(2) Where, pursuant to subsection 1, another day is named in an agreement, decision or award as the day upon which the agreement, decision or award is to have effect and such day is prior to the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures involved in the agreement, decision or award, any of the provisions involving expenses, notwithstanding the naming of such day, have effect from the first day of such fiscal period. R.S.O. 1950, c. 138, s. 7. ^{Idem}

9. Where a request in writing is made under subsection 1 of section 5 after the 30th day of November in any year and ^{Payment of expenditures}

before the 1st day of December in the year next following and no agreement, decision or award has resulted therefrom at the time when the council is passing its estimates in the year next following the last-mentioned year, the council shall make adequate provision for the payment of such expenditures as may be involved in the request. R.S.O. 1950, c. 138, s. 8.

Act to
prevail over
municipal
by-laws

10. This Act has effect notwithstanding any by-law or regulation of a municipality relating to its fire department. R.S.O. 1950, c. 138, s. 9.

Offence

11. Every person who requires or requests a full-time fire fighter to be on duty in contravention of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1950, c. 138, s. 10.

PART II

Grants
in aid

12.—(1) The Treasurer of Ontario may make an annual grant out of the Consolidated Revenue Fund to every municipality having a fire department, and the amount of such grant shall be equal to the following proportion of the total of the amounts paid by the municipality during the year preceding the year in which the grant is made in respect of *The Workmen's Compensation Act* or a benefit plan approved by the Workmen's Compensation Board and in respect of contributions to a pension plan for full-time fire fighters,

R.S.O. 1960,
c. 437

- (a) where the population of the municipality is less than 10,000, 25 per cent;
- (b) where the population of the municipality is 10,000 or more and less than 25,000, 20 per cent;
- (c) where the population of the municipality is 25,000 or more and less than 70,000, 15 per cent; and
- (d) where the population of the municipality is 70,000 or more, 10 per cent. 1953, c. 37, s. 1.

Fire areas in
townships

(2) Where there is one or more fire areas in a township, the population of the fire area or areas shall be deemed to be the population of the municipality for the purposes of this section. R.S.O. 1950, c. 138, s. 11 (2).

Conditions
precedent
to grants

13. No grant under section 12 shall be made,

- (a) unless all full-time and volunteer fire fighters are under *The Workmen's Compensation Act* or a benefit plan approved by the Workmen's Compensation Board;

- (b) where the municipality is in default under Part I or under an agreement, decision or award made under the collective bargaining provisions of Part I; and
- (c) in the case of a municipality employing any full-time fire fighters, unless there is in force for the full-time fire fighters a pension plan established under an Act under which the municipality contributes an amount that is not less than 5 per cent of the salaries of the members participating in the plan. R.S.O. 1950, c. 138, s. 13.

14.—(1) The treasurer of a municipality making claim in any year to a grant under section 12 shall, so soon as may be in the year after the amounts upon which the grant is based have been determined for the preceding year, send to the Department of Municipal Affairs a statement in the form furnished by the Department showing,

Claims for grants

- (a) that the requirements of section 13 have been met; and
- (b) the amounts upon which the grant is based as determined for the preceding year, together with such particulars thereof as the Department requests. R.S.O. 1950, c. 138, s. 14 (1); 1953, c. 37, s. 3.

(2) The Department of Municipal Affairs shall examine the statement and, if it is satisfied as to the correctness thereof, it shall so certify to the Treasurer of Ontario. R.S.O. 1950, c. 138, s. 14 (2).

Certification of statement

15.—(1) Where the Department of Municipal Affairs notifies the treasurer of the municipality that it is not satisfied as to the correctness of the statement mentioned in section 14, the council of the municipality, within fourteen days of the receipt by the treasurer of the notice, may refer any matter in dispute to the Ontario Municipal Board whose decision thereon is final and shall be acted upon by the Department.

Reference to Ontario Municipal Board, fire department costs

(2) Where the certificate of the Fire Marshal is required as to whether fire apparatus or fire-fighting equipment has met the prescribed standards, the council of the municipality may, within fourteen days of the receipt by the treasurer of the municipality of notice of the certificate of the Fire Marshal, if it is not satisfied with such certificate, refer any matter in dispute to the Ontario Municipal Board whose decision thereon is final and shall be acted upon by the Fire Marshal. R.S.O. 1950, c. 138, s. 16.

Fire apparatus

Fire
schools

16. The Fire Marshal may,

- (a) establish, maintain and operate a central fire college for the training of fire department officers;
- (b) establish and operate regional fire schools for the training of fire fighters;
- (c) provide travelling instructors for fire fighters,

and the cost thereof is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 138, s. 17.

Regulations

17. The Lieutenant Governor in Council may make regulations,

- (a) prescribing standards for fire apparatus and fire-fighting equipment;
 - (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 138, s. 18.
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CHAPTER 146

The Fire Fighters' Exemption Act

1. Whenever a company of fire fighters has been regularly enrolled in a municipality with the approval of the council of the municipality, the council shall direct the clerk to grant to each member of the company a certificate that he is enrolled in the company, which certificate exempts the person named therein, during the period of his enrolment and his continuance in actual duty, from serving as a jurymen or a constable. R.S.O. 1950, c. 141, s. 1, *revised*.

When fire
fighters to be
exempted
from serving
as jurors and
constables

2. Upon complaint to the council of neglect of duty by a member of such fire company, the council shall examine into the complaint and, for any such cause and also in case a member of the company is convicted of a breach of any of the rules legally made for the regulation of the company, may strike off the name of any such member from the list of the company and thenceforward the certificate granted to the member has no effect in exempting him from any duty or service. R.S.O. 1950, c. 141, s. 2.

Forfeiting
exemption
in case of
misconduct

CHAPTER 147

The Fire Guardians Act

1.—(1) The council of a township may, on the petition of one-third of the ratepayers, at any meeting to be held before the 1st day of April in any year, appoint by by-law not less than two resident freeholders for each polling subdivision in the municipality to carry out the provisions of this Act. <sup>Appoint-
ment of fire
guardians</sup>

(2) The persons so appointed shall be called “fire guardians” and shall hold office until the first meeting of a new council elected after their appointment and until their successors are appointed. R.S.O. 1950, c. 139, s. 1. <sup>Tenure of
office</sup>

(3) The council may, in the by-law, make provision for payment to the fire guardians for their services and may fix a penalty to be imposed upon fire guardians refusing or neglecting to perform their duties under this Act or the by-law. R.S.O. 1950, c. 139, s. 5. <sup>Matters to
be provided
for</sup>

2. The council in any by-law passed under section 1 may provide that the period within which no person, without having first obtained permission in writing from one of the fire guardians, shall set out fire or set fire to any brush heap or other combustible material in any field, clearance or place in such township where the fire would be likely to spread shall be between the 1st day of April and the 31st day of October in any year. 1957, c. 36, s. 1, *amended*. <sup>Restricted
period for
setting
out fires</sup>

3.—(1) No person shall, after the passing of such by-law, set out fire or set fire to any brush heap or other combustible material in any field, clearance or place in such township where the fire would be likely to spread between the 1st day of April and the 31st day of October in any year without having first obtained permission in writing from one of the fire guardians. R.S.O. 1950, c. 139, s. 2; 1957, c. 36, s. 2, *amended*. <sup>Leave to be
obtained be-
fore setting
out fires</sup>

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100, recoverable on information of any resident ratepayer in the municipality. R.S.O. 1950, c. 139, s. 6, *revised*. ^{Offence}

Disposition
of fine

(3) The complainant is entitled to one-half of the fine and the other half shall be paid over to the treasurer of the municipality. R.S.O. 1950, c. 139, s. 7.

Leave not to
be relied on
in actions
for negli-
gence

4. The permission of a fire guardian to set out fire shall not be pleaded or given in evidence in any action for negligently setting out fire, or in extenuation of so doing, or in mitigation of damages, but the absence of such permission is *prima facie* evidence of negligence. R.S.O. 1950, c. 139, s. 3, *revised*.

Inspection
by fire
guardian
before
granting
leave

5. A fire guardian on being requested to grant permission to set out fire shall examine the place at which it is intended to set out the fire and the adjacent land and the timber, trees and other property thereon, and he shall refuse such request if, in his opinion, it would not be safe to set out the fire. R.S.O. 1950, c. 139, s. 4.

Where Act
not to
apply

6. This Act does not apply in any part of Ontario that has been declared a fire district under any Act. R.S.O. 1950, c. 139, s. 8.

CHAPTER 148

The Fire Marshals Act

1. In this Act,

Interpre-
tation

(a) "Minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(b) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 140, s. 1, *amended*.

2.—(1) There shall be an officer to be known as the Fire Marshal, who shall be appointed by the Lieutenant Governor in Council.

Appoint-
ment of
Fire
Marshal

(2) There shall be an officer to be known as the Deputy Fire Marshal, who shall be appointed by the Lieutenant Governor in Council and who shall act in the stead of the Fire Marshal in the absence of, or during the illness or incapacity of the Fire Marshal, or in the case of a vacancy in the office, and who, when so acting, has all the power and authority of the Fire Marshal, and who shall exercise such powers and perform such duties for the prevention or investigation of fire or the protection of life and property from fire as the Lieutenant Governor in Council deems expedient or as are prescribed by the regulations.

Deputy
Fire
Marshal

(3) The Lieutenant Governor in Council may appoint such number of persons as he deems necessary to be district deputy fire marshals, who shall, subject to the regulations and the direction and control of the Fire Marshal, possess the powers to perform the duties of the Fire Marshal in the respective localities for which they are appointed.

District
deputy fire
marshals

(4) The Lieutenant Governor in Council may appoint inspectors who, under the direction of the Fire Marshal, shall investigate the cause, origin and circumstances of fires occurring in Ontario and perform such other duties as are provided by this Act and the regulations, and while so acting every inspector is subject to the regulations and possesses the same powers as the Fire Marshal. R.S.O. 1950, c. 140, s. 2 (1-4).

Inspectors,
appoint-
ment

(5) The Lieutenant Governor in Council may appoint fire services instructors who, under the direction of the Fire

Fire
services
instructors

Marshal, shall assist in the organization and training of municipal fire departments and in the development of other fire prevention programmes and shall perform such other duties as are imposed by this Act or the regulations. 1960, c. 38, s. 1.

Officers and assistants

(6) The Lieutenant Governor in Council may also appoint such officers, clerks and servants as are deemed necessary for carrying out and enforcing this or any other Act of Ontario relating to the prevention and investigation of fire, and the regulations.

Salaries

(7) The Fire Marshal, Deputy Fire Marshal, district deputy fire marshals, inspectors and other officers, clerks and servants shall receive such salaries or other remuneration as is fixed by the Lieutenant Governor in Council.

Salaries and expenses, how payable

(8) The salaries and other remuneration and the expenses incurred in investigations and in the exercise of the powers and duties conferred and imposed upon the officers and assistants to the Fire Marshal or other persons in the prevention or investigation of fires, and generally all expenses incurred in carrying out this Act and the regulations are payable out of the moneys that are appropriated by the Legislature for salaries and expenses under this Act. R.S.O. 1950, c. 140, s. 2 (5-7).

Grant to fire prevention association

(9) The Lieutenant Governor in Council may direct the payment out of the appropriation made by the Legislature for salaries and expenses in connection with this Act of a grant to any association or league or society organized for the purpose of fire prevention, and such a grant may be subject to such terms and conditions as the Lieutenant Governor in Council deems proper. R.S.O. 1950, c. 140, s. 2 (8); 1956, c. 24, s. 1.

Powers and duties of Fire Marshal

3. Subject to the regulations and for the prevention and investigation of fire, it is the duty of the Fire Marshal and he has power,

R.S.O. 1960, o. 249

- (a) whenever he has reason to believe that the council of a municipality has not passed a by-law under the authority of any of the sections of *The Municipal Act* or any other Act relating to the prevention of fire or protection of life and property therefrom, or that the by-law that has been passed by a municipal council is not complete or is not being enforced, to confer with members or officers of the council and to assist them as far as is expedient and practicable in preparing, improving and enforcing the by-law;
- (b) to assist members of municipal councils and municipal officers in the formation and organization of fire departments, to make recommendations with

regard to equipment, operations, duties and administration of fire departments, and in the preparation of by-laws relevant thereto;

- (c) to require the chief of the fire department of a municipality or any other person who is designated as an assistant of the Fire Marshal to assist in the enforcement of the by-law;
- (d) to disseminate information and advice as to the prevention of fire by means of public meetings, newspaper articles, pamphlets, exhibitions and moving picture films and otherwise as he considers advisable;
- (e) to assist in the formation of local associations or leagues and to co-operate with any body or persons interested in developing and promoting the principles and practices of fire prevention and fire protection;
- (f) to advise and assist departments and agencies of government in fire prevention and fire protection problems;
- (g) to keep a record of every fire reported to him with such facts, statistics and circumstances as are required by the regulations;
- (h) to investigate the cause, origin and circumstances of any fire so reported to him and so far as it is possible determine whether it was the result of carelessness or design;
- (i) on the instructions of the Minister, to investigate the cause, origin and circumstances of any explosion or of any conditions that in the opinion of the Minister might have caused fire, explosion, loss of life or damage to property and so far as possible determine whether the explosion was or conditions were the result of carelessness or design;
- (j) to report to the Crown attorney of the proper county or district the facts found upon the evidence in any case in which he has reason to suppose that loss by fire has been occasioned by criminal negligence or design or in which he deems an offence has been committed against this Act;
- (k) whenever he deems it advisable in the public interest, to order the withholding of insurance money that may become payable by reason of any fire for a period not exceeding sixty days from the occurrence of the fire pending an investigation of its cause and circumstances;

- (l) to enter upon, examine and inspect from time to time hotels, apartment houses, factories, work shops and other places where persons reside or are employed in numbers, and direct such alterations to be made and such precautions to be taken as he deems necessary for the purpose of complying with any statute or regulation made for the better protection of life and property in such buildings. R.S.O. 1950, c. 140, s. 3; 1960, c. 38, s. 2.

Powers
to hold
inquiries

4. For the purpose of any inquiry or investigation that it is his duty or which he has the power to hold under this Act, the Fire Marshal has and may exercise all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 140, s. 4.

R.S.O. 1960,
c. 323

Fire
Marshal's
deputy
pro tempore

5. Subject to the approval in writing of the Minister, the Fire Marshal may by writing under his hand appoint any person his deputy *pro tempore* for the purpose of holding an investigation into the cause, origin and circumstances of any fire, and for that purpose, the deputy *pro tempore* has all the powers of the Fire Marshal under this Act and the regulations. R.S.O. 1950, c. 140, s. 6.

Employ-
ment of
expert and
profes-
sional
assistance

6. With the approval of the Minister, the Fire Marshal may employ such legal, technical, scientific, clerical or other assistance as he deems advisable or necessary in the conduct of any investigation held under this Act or in carrying out the provisions of this Act relating to the prevention of fire or in the exercise and performance of his powers and duties. R.S.O. 1950, c. 140, s. 7.

Assistants
ex officio,
duties

7.—(1) The chief of the fire department of every municipality that has a fire department and the clerk of every other municipality is by virtue of the office held by him an assistant to the Fire Marshal, and it is the duty of every assistant to the Fire Marshal to act under his direction in carrying out this Act. R.S.O. 1950, c. 140, s. 8 (1).

Duty
to report

(2) The assistants to the Fire Marshal shall report to him in writing, on forms to be supplied by him, all the fires occurring in their respective municipalities within three days after receiving information of the fire and including therein particulars of all fatalities and injuries sustained by persons in such fires. R.S.O. 1950, c. 140, s. 8 (2); 1960, c. 38, s. 4 (1).

Fees of
assistants

(3) Except in the case of a municipality where the chief of the fire department is paid an annual salary of more than \$500 by the corporation of the municipality, every such assistant of the Fire Marshal shall be paid, upon the certificate

of the Fire Marshal and out of the moneys that are appropriated by the Legislature for salaries and expenses in connection with this Act, the sum of \$1 for each report. R.S.O. 1950, c. 140, s. 8 (3); 1960, c. 38, s. 4 (2), *revised*.

(4) Where in a municipality a fire prevention bureau has been established or the chief of the fire department of a municipality has designated one or more members of the fire department as a fire prevention officer or officers or the Fire Marshal has so designated any other person, every person who is a member of the bureau or who is so designated is an assistant to the Fire Marshal and has all the powers of an assistant to the Fire Marshal under this Act. R.S.O. 1950, c. 140, s. 8 (4); 1960, c. 38, s. 4 (3), *revised*.

Assistants
to the Fire
Marshal

(5) The chief of the fire department of a municipality has the same powers and duties with respect to buildings or premises outside the territorial limits of the municipality as if the buildings or premises were situate within the municipality,

Powers of
chief outside
municipality

- (a) if the buildings or premises are owned or used by the municipality; or
- (b) if the municipality has undertaken to provide fire protection for the buildings or premises. R.S.O. 1950, c. 140, s. 8 (5).

8.—(1) Every fire insurance company authorized to transact business in Ontario shall report to the Fire Marshal, through the secretary or some other officer of the company designated by the board of directors for that purpose, all fire losses on property insured in the company, giving the date of the fire and such other particulars as are required by the regulations.

Fire insurance
companies, duty
to report

(2) The report shall be mailed to the Fire Marshal within three days after notice of loss is received by the company.

Transmitting
reports

(3) Every such company shall also report to the Fire Marshal the amount of the loss as adjusted on each fire after the adjustment is made.

Reporting
losses
adjusted

(4) Every person sustaining or claiming to have sustained a loss by fire on property in Ontario insured wholly or partially in an insurance company not licensed or registered under *The Insurance Act* shall report to the Fire Marshal within three days after the occurrence of the fire the particulars of the insurance, the date of the fire, and such other information as is called for by the regulations, and he shall also, within ten days after completing proofs of loss against the company in which he is so insured, file with the Fire Marshal a full statement of the amount of loss claimed from every such company.

Particulars
of fire to be
furnished
by insured

R.S.O. 1960,
c. 190

Claimant on loss to furnish information to Fire Marshal's assistant

(5) Every person sustaining a loss by fire on property in Ontario shall upon the written or oral request of an assistant to the Fire Marshal, furnish to the assistant within seven days after receipt of the request, whatever information is required to complete the form of report called for in subsection 2 of section 7.

Adjusters to furnish report on loss to Fire Marshal

(6) Every person adjusting a claim against a fire insurance company, whether the company is licensed to transact business in Ontario or not and whether the adjuster represents the company or the claimant, shall within three days after the completion of the adjustment forward a report in writing to the Fire Marshal, giving the date of the fire, the value of the property affected by the different items of the policy as established during the process of the adjustment of the claim, the insurance in each company, the amount of loss allocated to be paid by each company and such other particulars as are required by the regulations.

Fire Chief to be notified of claim

(7) Every person adjusting a claim against a fire insurance company in a municipality having an organized fire department shall, where the fire department has not been summoned to or attended at the fire giving rise to the claim, by notice in writing, advise the chief of the fire department of the occurrence of the fire. R.S.O. 1950, c. 140, s. 9.

Saving as to duties provided for by municipal by-law

9. Nothing in this Act renders it obligatory for the Fire Marshal to perform in a local municipality such of the duties prescribed by this Act as are provided for by by-laws of the local municipality. R.S.O. 1950, c. 140, s. 10.

Fund for expenses of Fire Marshal
R.S.O. 1960, c. 190

10.—(1) Every person, syndicate, reciprocal exchange or corporation transacting the business of fire insurance within the meaning of *The Insurance Act* shall, in addition to the taxes and fees now required by law to be paid, pay to the Treasurer of Ontario on or before the 15th day of March in each year such sum as is determined by the Lieutenant Governor in Council, not exceeding 1 per cent, calculated upon the gross premiums, fixed payments and assessments received during the preceding year in respect of fire insurance business transacted in Ontario, excluding,

- (a) premiums returned;
- (b) premiums paid in respect of reinsurance ceded to insurance companies licensed to transact business in Ontario; and
- (c) the cash value of dividends paid or credited to policyholders by mutual insurance companies and reciprocal exchanges,

as shown by the annual statement furnished to the Department of Insurance under *The Insurance Act*. 1957, c. 37, s. 1 (1).

(2) Every person sustaining or claiming to have sustained a loss by fire on property in Ontario insured in a company not licensed or registered under *The Insurance Act* shall pay to the Treasurer of Ontario an amount equal to 1 per cent upon the gross amount of loss claimed upon the unlicensed or unregistered company and the amount is due and payable not later than sixty days from the date of filing the claim upon the company or its representative whether the claim has or has not been paid at the expiration of such sixty days, and where the claim is sent by mail, the date of the mailing shall be taken for the purposes of this subsection to be that upon which the claim was filed.

Contribution by persons insured in unregistered companies
R.S.O. 1960, c. 190

(3) The total of such amounts constitutes a special fund for the maintenance of the office of the Fire Marshal and the expense incident thereto, but any part of the fund remaining unexpended at the end of any year and not required for maintenance shall be carried forward to the next fiscal year and the next assessment upon the fire insurance companies correspondingly reduced.

Application of fund

(4) The Treasurer of Ontario may make a preliminary assessment of the sum as provided in subsection 1 and such assessment shall be made upon the basis of the premiums, fixed payments and assessments received in respect of business transacted in Ontario during the last complete year for which annual statements have been filed in accordance with *The Corporations Tax Act* and *The Insurance Act*, and the amount of the assessment is subject to subsection 3. 1957, c. 37, s. 1 (2).

Preliminary assessment for expenses

R.S.O. 1960, cc. 73, 190

(5) Every person who contravenes any of the provisions of this section is guilty of an offence against this Act and on summary conviction is liable to the fine prescribed by section 15. R.S.O. 1950, c. 140, s. 11 (5), *amended*.

Offence

11. The Fire Marshal shall keep such registers and books of account as are prescribed by the Lieutenant Governor in Council. R.S.O. 1950, c. 140, s. 12.

Books

12. The Fire Marshal, Deputy Fire Marshal or a district deputy fire marshal, inspector or municipal fire chief has power,

Examination and closing of premises

- (a) to enter and examine any premises on which a fire has occurred or on which he has reason to believe there may be a substance or device likely to cause a fire;

- (b) to close such a premises and to prevent entry thereon by any other person for such period as is required to complete the examination of the premises; and
- (c) to remove from such a premises and to retain and examine any article or material that in his opinion may be of assistance in connection with any matter under investigation. R.S.O. 1950, c. 140, s. 13.

Power to
obtain
evidence

13. The Fire Marshal, the Deputy Fire Marshal, district deputy fire marshals and inspectors have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1950, c. 140, s. 14.

Duty of
witnesses
to give
evidence

14. Every person upon being served with a summons under the hand of the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or inspector to attend for the purposes of giving evidence shall attend in pursuance of the summons, and is entitled to be paid such fees and expenses as are prescribed by the regulations. R.S.O. 1950, c. 140, s. 15.

Offences:

obstructing

15. Every person who,

(a) hinders or disturbs the Fire Marshal or any officer appointed under this Act in the execution of his duties;

contraven-
ing Act

(b) contravenes any of the provisions of this Act or the regulations;

failure
to give
evidence

(c) refuses or neglects to attend and be sworn and give evidence before the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or inspector;

disobedi-
ence to
orders
of Fire
Marshal

(d) refuses or neglects to obey or carry out the instructions or directions of the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or inspector given under the authority of this Act,

is guilty of an offence and, where a penalty for such offence is not elsewhere in this Act provided for, on summary conviction, is liable to a fine of not more than \$20, but the imposition of any such fine or the payment thereof does not relieve a person convicted from fulfilling any obligation for the neglect of which the penalty was imposed. R.S.O. 1950, c. 140, s. 16.

Duty of
Crown
attorney to
prosecute

16.—(1) It is the duty of the Crown attorney of every county or district, upon receiving the report of the Fire Marshal or upon receiving notice of an offence having been committed against any of the provisions of this Act or the regulations, to institute and conduct a prosecution of any person who appears to have been guilty of an offence against

the *Criminal Code* (Canada) or against this Act or the regulations. 1953-54, c. 51 (Can.)

(2) Upon the request of the Fire Marshal, it is the duty of the Crown attorney of the county or district to attend any investigation held under this Act and to examine the witnesses at the investigation and assist the Fire Marshal in the conduct of the investigation. Crown attorney to attend at investigation R.S.O. 1950, c. 140, s. 17 (1, 2).

(3) If the investigation is held in a place other than the county or district town, the Crown attorney is entitled to his actual disbursements for travelling and other expenses. Travelling expenses, etc., when allowed R.S.O. 1950, c. 140, s. 17 (4).

17.—(1) The corporation of every municipality shall provide a suitable place for the holding of investigations and public inquiries by the Fire Marshal or his deputy, and until such place is provided, the investigations and inquiries may be held in the magistrate's court room of the municipality, but at such times as do not interfere with the use of the court room for the holding of the magistrate's court. Municipality to provide place for holding investigation R.S.O. 1950, c. 140, s. 18 (1); 1960, c. 38, s. 6 (1).

(2) If a suitable place is not provided by the municipality, the Fire Marshal may procure a suitable place for holding the investigation or inquiry, and the expense incurred shall be borne by the municipality. Where Municipality does not act R.S.O. 1950, c. 140, s. 18 (2); 1960, c. 38, s. 6 (2).

18. The fees and expenses as certified by the Fire Marshal to be payable to the Crown attorney or to witnesses or for assistance given or services rendered to the Fire Marshal under this Act are payable out of the moneys that are appropriated by the Legislature for salaries and expenses in connection with this Act. Payment of fees and expenses out of appropriation R.S.O. 1950, c. 140, s. 19.

19.—(1) Subject to the regulations, the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal, an inspector or an assistant to the Fire Marshal may, upon the complaint of a person interested, or when he deems it necessary so to do, without such complaint, inspect all buildings and premises within his jurisdiction, and for such purpose may at all reasonable hours enter into and upon the buildings and premises for the purpose of examination, taking with him if necessary, a constable or other police officer or such other assistants as he deems proper. Inspection of buildings and premises R.S.O. 1950, c. 140, s. 20 (1).

(2) If, upon such inspection, it is found that a building or other structure is for want of proper repair or by reason of age and dilapidated condition or any other cause especially liable to fire, or is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons Orders on inspection

or property therein or that exits from the building or buildings are inadequate or improperly used, or that there are in or upon the buildings or premises combustible or explosive materials or conditions dangerous to the safety of the buildings or premises or to adjoining property, the officer making the inspection may order,

- (a) the removal of the buildings or the making of structural repairs or alterations therein;
- (b) the removal of combustible or explosive material, or the removal of anything that may constitute a fire menace;
- (c) the installation of safeguards by way of fire extinguishers, fire alarms and other devices and equipment and also such avenues of egress, fire escapes and exit doors as are deemed necessary to afford ample exit facilities in the event of fire or an alarm of fire. R.S.O. 1950, c. 140, s. 20 (2); 1960, c. 38, s. 7 (1).

Electrical
installations

(3) If, upon such inspection, it is found that a building or other structure is by reason of the inadequacy or want of repair of the electrical installations and wiring therein especially liable to fire, the officer making the inspection may order a re-inspection by The Hydro-Electric Power Commission of Ontario of such electrical installations and wiring and that the cost of such re-inspection be paid by the owner or occupant of the building or other structure. 1956, c. 24, s. 2 (1).

Removal of
process from
buildings

(4) The Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal, an inspector or an assistant to the Fire Marshal may order the removal from any building not being of fire resistive construction or being within fifty feet of a hospital, school, church, theatre or any other place of public assembly or an hotel, apartment house or multiple occupancy dwelling, of a process of manufacture or other occupancy that because of the danger of fire or explosion is especially hazardous to life or property or may order that any such premises shall not be used for any such process or occupancy.

Appeal to
Fire Mar-
shal

(5) If the occupant or owner of any such building or premises deems himself aggrieved by an order made by an officer other than the Fire Marshal under this section, then in case the order is made under clause *a* of subsection 2 or subsection 4, the person aggrieved may appeal within ten days from the making of the order to the Fire Marshal, who shall examine the order and affirm, modify or revoke it and cause a copy of his decision to be served upon the party appealing.

(6) If the party appealing is dissatisfied with the decision of the Fire Marshal, he may within five days after the service of the decision, apply by way of originating notice according to the practice of the court, to the judge of the county or district court of the county or district in which the property is situate, for an order modifying or revoking the order or extending the time for compliance therewith, and the judge, upon such application, may affirm, modify or revoke the order and his decision is final. Appeal from Fire Marshal to county judge

(7) If the appeal to the county or district judge is not prosecuted by the appellant within sixty days from the filing of the originating notice, the county or district judge may dismiss the appeal at the request of the Fire Marshal. R.S.O. 1950, c. 140, s. 20 (3-6). Fallure to prosecute appeal

(8) In the case of an order made under clause *b* or *c* of subsection 2 or under subsection 3 by an officer other than the Fire Marshal, the occupant or owner has the like right of appeal to the Fire Marshal as in the case of an order made under clause *a* of subsection 2, and the decision of the Fire Marshal upon the appeal is final and is not subject to appeal. R.S.O. 1950, c. 140, s. 20 (7); 1956, c. 24, s. 2 (2). When appeal to Fire Marshal is final

(9) Every person who fails to obey an order made under clause *a* of subsection 2 or under subsection 4 after the time allowed for appeal therefrom has elapsed is guilty of an offence and is liable to a fine of not less than \$10 in all and not more than \$100 for every day during which such default continues, and every person who fails to obey an order made under clause *b* or *c* of subsection 2 or under subsection 3 is guilty of an offence and is liable to a fine of not less than \$10 in all and not more than \$20 for each day upon which such default continues. R.S.O. 1950, c. 140, s. 20 (8); 1956, c. 24, s. 2 (3). Offences

(10) Every fine under subsection 9 is recoverable before a magistrate or two or more justices of the peace under *The Summary Convictions Act*, but the imposition of any such fine or the payment thereof does not relieve a person convicted from fulfilling any obligation for the neglect of which the penalty was imposed. R.S.O. 1950, c. 140, s. 20 (9). Manner of collecting R.S.O. 1960, c. 387

(11) If the obligation for the neglect of which the fine was imposed on a person is not fulfilled within thirty days after the conviction, the magistrate or justices, on the application of the Fire Marshal, may order the closing of any premises where the danger of fire or explosion is especially hazardous to life or property until such time as the obligation for which the fine was imposed is fulfilled. Closing of premises

(12) Where the person does not remedy the conditions for which a conviction was made within thirty days after conviction, the magistrate or justices may issue an order author- Removal of hazard by Fire Marshal

izing the Fire Marshal to remove the building or combustible or explosive material or anything that may constitute a fire menace and the expenses so incurred shall be paid as in subsections 14 and 15. 1960, c. 38, s. 7 (2).

Action in
absence of
owner of
premises

(13) If the owner is absent from or is a non-resident of Ontario or his whereabouts in Ontario is unknown and there is no occupant of the building or premises, or his whereabouts in Ontario is unknown, the Fire Marshal may direct and procure,

(a) the removal of the buildings;

(b) the removal of combustible or explosive material, or the removal of anything that may constitute a fire menace,

in such manner as he deems proper, but no expense shall be incurred for such purpose beyond the amount of \$100 without the approval of the Minister.

Expenses,
payment

(14) The expense so incurred shall be paid in the first instance out of any appropriation of the Fire Marshal's office.

Collection

(15) The Fire Marshal shall certify to the treasurer of the municipality in which the building, premises or structure is situate the expenses actually and necessarily incurred, and the treasurer shall forthwith pay the amount so certified to the Treasurer of Ontario, and the amount may be entered upon the collector's roll against the land or premises in relation to which action was so taken and constitutes a lien thereon and be levied and collected as taxes against the land or premises. R.S.O. 1950, c. 140, s. 20 (10-12).

Minor
alterations
and repairs

(16) If the owner of a building or premises is absent from or does not reside in the municipality in which the building or premises is situate, or his whereabouts in the municipality is unknown, the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal, an inspector or an assistant to the Fire Marshal may order the tenant or occupant to make minor alterations or repairs that are urgently required for purposes of fire prevention and the tenant or occupant may deduct the cost of the alterations or repairs from any rent thereafter payable on furnishing the owner with a copy of the order and an accounting of the amount deducted but a tenant or occupant shall not be required to expend or expend in any year an amount in excess of 25 per cent of the annual rental payable in respect of such tenancy or occupancy. R.S.O. 1950, c. 140, s. 20 (13); 1960, c. 38, s. 7 (3).

Power to
suspend
deputy or
other
official

20.—(1) The Fire Marshal may suspend from duty a district deputy fire marshal or other official for such cause as he deems sufficient and shall report the suspension immediately to the Minister.

(2) The pay of such district deputy fire marshal or other official shall not be allowed during the period of suspension, except by order in writing of the Minister. R.S.O. 1950, c. 140, s. 21. Pay to cease during suspension

21.—(1) Subject to the regulations, the Fire Marshal shall from time to time as is found necessary for the prevention of fire and for safeguarding human life from the danger of fire, adopt rules for the use, storage and handling of explosives and volatile compounds, including crude and refined illuminating and fuel oil, and all the devices and apparatus employed in utilizing the same, but such rules are not effective until approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 140, s. 22 (1), *amended*. Fire Marshal may adopt rules for prevention of fire

(2) Where a municipality has passed a by-law under paragraphs 9 to 17 of subsection 1 of section 379 of *The Municipal Act* regulating the keeping and manufacturing of explosives, the requirements of the by-law, if more exacting than those approved by the Lieutenant Governor in Council under this section, govern and apply to properties in the municipality. R.S.O. 1950, c. 140, s. 22 (2). Municipal by-law to take precedence R.S.O. 1960, c. 249

22. No municipality shall have, and no person shall have in connection with any fire apparatus or fire-fighting equipment that is installed on any premises, couplings for 1½-inch fire hose or other fittings used in connection with such couplings that are not of the iron pipe standard thread of 11½ threads an inch and that do not conform to the standards and specifications for such couplings and fittings contained in the Canadian Standards Association specification for 1½-inch fire hose coupling screw thread and tail piece internal diameters B89—1954 (2nd edition). 1954, c. 31, s. 1, *part*. Coupling standards for 1½-inch fire hose

23. No municipality shall have, and no person shall have in connection with any fire apparatus or fire-fighting equipment that is installed on any premises, couplings for 2½-inch fire hose or other fittings used in connection with such couplings that do not have 5 threads an inch and 3⅛-inch outside diameter of the male coupling and that do not conform to the standards and specifications for such couplings and fittings contained in the Canadian Standards Association specification for 2½-inch fire hose couplings and fittings B89.2—1954 (2nd edition). 1954, c. 31, s. 1, *part*. Coupling standards for 2½-inch fire hose

24. No municipality or body in which is vested the management and control of hydrants shall have, and no person shall have in connection with any fire apparatus or fire-fighting equipment that is installed on any premises, hydrants with 2½-inch nozzles that do not conform to the thread standards Hydrant standards

and specifications referred to in section 23 or operating nuts that are not square in shape with an over-all dimension on each side of $1\frac{1}{4}$ inches and a depth of not less than $1\frac{1}{4}$ inches. 1954, c. 31, s. 1, *part*.

Offence

25. Every person, municipality or body in which is vested the management and control of hydrants that contravenes any of the provisions of section 22, 23 or 24 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for each day upon which the couplings, fittings or hydrants do not conform to the standards and specifications referred to in such sections, and in addition the Fire Marshal may take proceedings by way of mandamus to compel such person, municipality or body to comply with such standards and specifications. 1954, c. 31, s. 1, *part*.

Regulations

26. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the respective duties of the Fire Marshal, Deputy Fire Marshal, district deputy fire marshals and inspectors, and of the officers, clerks and servants of the Fire Marshal's office;
- (b) fixing the forms of and particulars to be stated in the records and returns to be made by the Fire Marshal, Deputy Fire Marshal, and district deputy fire marshals, and by every person who is required under this Act to furnish information to the Fire Marshal;
- (c) requiring such statistical and other information to be furnished to the Fire Marshal as he deems necessary;
- (d) providing for the appointment of an advisory committee and defining the duties and powers of the committee;
- (e) providing for licensing and regulating the manufacture, sale, servicing and recharging of fire extinguishers;
- (f) prescribing the methods of fire prevention to be used in any class of premises or premises used for any specified purpose;
- (g) prescribing the types, location and testing of fire-fighting apparatus, equipment and devices and fire alarm systems to be used in any class of premises or premises used for any specified purpose;

- (h) regulating, subject to *The Gasoline Handling Act*, the manner and method of handling and storing flammable liquids or gases in any class of premises or premises used for any specified purpose; R.S.O. 1960,
c. 161
- (i) providing long service awards for members of the public fire services;
- (j) prescribing the forms, records and returns to be used, kept and made by fire chiefs in respect of their inspections of any class of premises or premises used for any specified purpose;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 140, s. 23 (1); 1960, c. 38, s. 8 (1, 2), *revised*.

27. A certificate under the hand and seal of the Fire Marshal of the appointment of a person under this Act is *prima facie* proof of the appointment in any court or elsewhere. R.S.O. 1950, c. 140, s. 24, *amended*. Certificate
of appoint-
ment

CHAPTER 149

The Fires Extinguishment Act

1.—(1) The council of a county may provide by by-law that fire guardians, fence-viewers, overseers of highways or pathmasters appointed by township councils, whenever the woods or prairies in a township are on fire so as to endanger property, shall order as many of the male inhabitants of the township residing in the vicinity of the place where the fire is as may be deemed necessary to turn out at the place where the fire prevails and assist in extinguishing it or in stopping its progress.

By-law of
county
council
giving
powers

(2) Where there is no county council, the council of a township may pass such by-law. R.S.O. 1950, c. 142, s. 1.

By-law of
township
council

2.—(1) Every such officer shall give to every person employed by him under section 1 a certificate of the number of days work done by him, and such work shall be allowed to him in his next year's statute labour, or, if such person is not liable to perform statute labour or not so many days statute labour as the number mentioned in the certificate, the county council may direct that such work shall be paid for out of the funds of the township, and such person is entitled to be paid by the township treasurer the amount of the certificate or the amount not credited on the next year's statute labour, as the case may be.

Work done
to be
allowed for
as statute
labour

(2) The county council may also provide for the application by the township councils of so much of the commutation of statute labour fund as may be required for assisting to extinguish or stop the progress of fires in their respective municipalities. R.S.O. 1950, c. 142, s. 2.

Application
of com-
mutation
fund by
townships

3. If a township council neglects to provide for the application of so much of the commutation of statute labour fund, or for payment of such amount as may be required for the purposes mentioned in section 2, the county council may do so and may pay the amount of such certificates and impose upon the township so in default a rate sufficient for that purpose to be levied and collected in the manner provided by *The Assessment Act* for the collection of a county rate. R.S.O. 1950, c. 142, s. 3.

Upon de-
fault of
townships,
county may
provide for
payment
of work

R.S.O. 1960,
c. 23

Penalty for
refusing to
assist in ex-
tinguishing
fires

4. Every person who refuses or neglects to turn out and work under any fire guardian, fence-viewer, overseer of highways or pathmaster, who has ordered him to turn out for that purpose, is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 142, s. 4.

CHAPTER 150

The Fish Inspection Act

1. In this Act,

Interpre-
tation

- (a) "container" means a receptacle or package used in holding, storing, packing or marketing fish;
- (b) "establishment" means a place where fish are handled, graded, processed or stored;
- (c) "fish" includes a shellfish, crustacean and any marine animal, and any parts, products or by-products of any of them;
- (d) "inspector" means a person appointed by the Minister for the purposes of this Act;
- (e) "marketing" means buying, selling, holding in possession, or offering or advertising for sale;
- (f) "Minister" means the Minister of Lands and Forests;
- (g) "processing" means cleaning, filleting, smoking, salting, icing, packing, freezing, cooking, pickling, drying or otherwise preparing fish for market;
- (h) "regulations" means the regulations made under this Act;
- (i) "vehicle" includes a steamship, vessel, boat, railway-car, truck, carriage, car, aircraft and any other means of carriage used for transporting fish. 1955, c. 23, s. 1, *revised*.

2.—(1) An inspector may at any time,

Powers of
inspector

- (a) enter any establishment or vehicle used for the storage or carriage of fish and open any container that he has reason to believe contains fish;
- (b) require to be produced for inspection or for the purpose of obtaining copies thereof, or extracts therefrom, any books, shipping bills, bills of lading or other documents or papers relating to the processing, transporting or marketing of fish; or
- (c) take samples of fish for inspection.

Obstruction (2) No person shall obstruct or impede an inspector in the discharge of his duties under this Act. 1955, c. 23, s. 2.

Appeal 3. Any person who thinks himself aggrieved by a decision of an inspector in respect of any matter under this Act or the regulations may appeal to the Minister in accordance with the procedure prescribed by the regulations. 1955, c. 23, s. 3.

Seizure of fish and containers 4.—(1) Whenever an inspector believes on reasonable grounds that an offence against this Act or the regulations has been committed, he may seize all fish and containers by means of or in relation to which he reasonably believes the offence was committed.

Detention of fish and containers (2) All fish and containers seized under subsection 1 may be detained for a period of two months following the day of seizure, unless during that period proceedings under this Act in respect of such fish and containers are taken, in which case the fish and containers may be further detained until such proceedings are finally concluded.

Disposal of fish seized (3) Where a person is convicted of an offence against this Act or the regulations, any fish or containers seized under subsection 1 are forfeited to Her Majesty and may be disposed of as the Minister directs. 1955, c. 23, s. 4.

Falsification, etc., of documents 5.—(1) No person shall falsify or unlawfully alter, destroy, erase or obliterate any document made or issued under this Act or the regulations, or any marks placed on any container pursuant to this Act or the regulations.

Offence (2) Every person who contravenes subsection 1 is guilty of an offence and is liable on summary conviction to a fine of not less than \$50 and not more than \$500, or to imprisonment for a term of not less than two months and not more than six months, or to both. 1955, c. 23, s. 5.

Fish for sale to be fit for human food 6.—(1) No person shall sell, offer for sale, or hold in possession for sale, any fish intended for human consumption unless the fish is wholesome and fit for human food.

Offence (2) Every person who contravenes subsection 1 is guilty of an offence and is liable on summary conviction to a fine of not less than \$100 and not more than \$500, or to imprisonment for a term of not less than three months and not more than six months, or to both. 1955, c. 23, s. 6.

Sale or possession under misleading name 7. No person shall sell, offer for sale, or hold in possession for sale, any fish or container under a name calculated to mislead or deceive. 1955, c. 23, s. 7.

General penalty 8. Every person who contravenes any of the provisions of this Act or of the regulations or any condition attached to any

licence issued under this Act or the regulations for which no penalty is elsewhere provided in this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$500, or to imprisonment for a term of not more than six months, or to both. 1955, c. 23, s. 8.

9. Every offence against this Act or the regulations and every contravention of any of the conditions of any licence issued under this Act or the regulations, for the purposes of any prosecution, shall be deemed to have been committed, and every cause of complaint under this Act or the regulations or any of the conditions of any licence issued under this Act or the regulations shall be deemed to have arisen in the place where the offence was actually committed or the place where it was first discovered by an inspector or the place where the defendant resides or is found. 1955, c. 23, s. 9.

Where offences deemed to have been committed

10. The Lieutenant Governor in Council may provide for the disposition of fines imposed for contraventions of this Act or the regulations and for the disposition of any proceeds from the sale of forfeited fish or containers. 1955, c. 23, s. 10.

Disposal of fines, etc.

11. The Minister may impose such terms and conditions in any licence as he deems proper and that are not inconsistent with this Act or the regulations. 1955, c. 23, s. 11.

Terms, etc., of licences

12. The Lieutenant Governor may by proclamation declare any regulations heretofore or hereafter made under the *Fish Inspection Act* (Canada), in so far as they are within the exclusive legislative jurisdiction of the Province, to have the force of law therein, and upon the issue of such proclamation the regulations therein referred to, in so far as they are within the exclusive legislative jurisdiction of the Province, have the force of law therein as if enacted by the Legislature. 1955, c. 23, s. 12.

Adoption of regulations under R.S.C. 1952, c. 118

13. The Lieutenant Governor in Council may, for the purpose of regulating the marketing of fish and containers locally within the Province, make regulations,

Regulations

- (a) prescribing grades, qualities and standards of fish for marketing;
- (b) respecting the handling, processing, storing, grading, packaging, marking, transporting and inspecting of fish;
- (c) respecting the quality and specifications for containers and the marking and inspecting of containers;

- (d) requiring and providing for the licensing of establishments and persons handling, processing, storing, grading, transporting or marketing fish, and prescribing and attaching conditions to licences;
 - (e) prescribing fees for licences, and for grading and inspection services;
 - (f) prescribing the requirements for the equipment and sanitary operation of establishments, and of vehicles used in connection with an establishment or in connection with fishing or the marketing of fish;
 - (g) prohibiting the marketing of fish or containers under a grade name or standard prescribed by the regulations unless all the requirements of this Act and the regulations with respect thereto have been complied with;
 - (h) prescribing the manner in which samples of fish may be taken;
 - (i) prescribing the procedure to be followed in any appeal to the Minister under this Act;
 - (j) providing for any thing connected with the marketing or inspection of fish and containers locally within the Province. 1955, c. 23, s. 13.
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CHAPTER 151

The Floral Emblem Act

1. The flower known botanically as the *trillium grandiflorum* and popularly known as the white trillium is adopted as and shall be deemed to be the floral emblem of the Province of Ontario. R.S.O. 1950, c. 143, s. 1.

CHAPTER 152

The Forest Fires Prevention Act**1.** In this Act,Interpre-
tation

- (a) "Department" means the Department of Lands and Forests;
- (b) "fire districts" means the parts of Ontario that are declared to be fire districts under section 2;
- (c) "forest travel permit areas" means the parts of Ontario that are declared to be forest travel permit areas under section 8;
- (d) "Minister" means the Minister of Lands and Forests;
- (e) "municipality" means a city, town, village, township or improvement district;
- (f) "officer" means a person employed or appointed by or with the approval of the Minister to assist in enforcing this Act;
- (g) "owner" includes a locatee, purchaser from the Crown, assignee, lessee, occupant, purchaser, timber licensee, holder of mining claim or location, and any person having the right to cut timber and wood upon any land;
- (h) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 144, s. 1; 1952, c. 31, s. 1 (1); 1955, c. 24, s. 1.

2.—(1) This Act applies only to fire districts. R.S.O. 1950, c. 144, s. 2 (1). Application
of Act

(2) The Lieutenant Governor in Council may declare parts of Ontario to be fire districts and may declare the name that each fire district shall bear. 1952, c. 31, s. 2. Creation
of fire
districts

(3) Nothing in this Act affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire. R.S.O. 1950, c. 144, s. 2 (3). Right of
action for
damages not
affected

3. The Minister may employ, for the purpose of enforcing this Act, such officers as he deems necessary, who shall act in accordance with his instructions. R.S.O. 1950, c. 144, s. 3. Appoint-
ment of
officers

Honorary
fire
wardens

4. The Minister may appoint honorary fire wardens who,
- (a) shall act without salary or other remuneration;
 - (b) shall have authority to enforce such of the provisions of this Act as the Minister deems necessary; and
 - (c) shall wear a special badge issued by the Department. R.S.O. 1950, c. 144, s. 4, *revised*.

Arrange-
ment with
owner for
additional
protection

5.—(1) Where the owner of any land in a fire district desires to provide protection from fire upon such land in addition to that authorized by the foregoing provisions of this Act, the Minister may arrange with the owner for the appointment of special officers upon such land for the enforcement of this Act and the regulations.

Appoint-
ments

(2) Every such appointment shall be made or approved by the Minister.

Payment of
special
officers

(3) Every person appointed under subsection 1 shall be paid by the owner of the land such salary or other remuneration as the Minister directs or approves. R.S.O. 1950, c. 144, s. 5.

Fire season

6.—(1) The period from the 1st day of April to the 31st day of October in each year shall be known as a fire season.

Extra fire
seasons

(2) The Minister may declare any period after the 31st day of October in any year and before the 1st day of April in the following year to be a fire season for any fire district or any part of a fire district.

Extensions
and restric-
tions

(3) The Minister may extend or restrict any fire season to such date as he deems proper and any such extension or restriction may be made applicable to any fire district or any part of a fire district. 1953, c. 38, s. 1.

Fire permit

7.—(1) Upon application, an officer may issue a permit, called a "fire permit", to set out fire during a fire season. R.S.O. 1950, c. 144, s. 7 (1); 1953, c. 38, s. 2 (1).

Authority
conferred

(2) A fire permit is authority to the permittee to set out fire only in accordance with,

- (a) the terms and conditions under which the permit is issued; and
- (b) the regulations. R.S.O. 1950, c. 144, s. 7 (2).

Prohibition
against fire
except under
permit

(3) Except under a permit, no person shall set out fire during a fire season for any purpose other than cooking or obtaining warmth. R.S.O. 1950, c. 144, s. 7 (3); 1953, c. 38, s. 2 (2).

(4) A fire permit may be limited as to duration and area, ^{Limitations in permit} but in any event it expires on the 31st day of March next following the date of its issue, and it may contain such other terms and conditions as the issuing officer deems necessary.

(5) A fire permit may be cancelled or suspended at any time by an officer, and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire set out under the permit. ^{Cancellation or suspension of permit} R.S.O. 1950, c. 144, s. 8.

8.—(1) The Lieutenant Governor in Council may declare parts of Ontario that are within one or more fire districts to be forest travel permit areas. ^{Forest travel permit areas}

(2) Upon application, an officer may issue, without charge and on such terms and conditions as he deems proper, a permit called a "forest travel permit" authorizing the permittee to enter and travel about during a fire season in a forest travel permit area or such part thereof as is designated in the permit. ^{Issue of forest travel permits}

(3) Notwithstanding subsection 3 of section 7, an officer ^{Setting out fires} under the terms and conditions of a forest travel permit, may prohibit the permittee from setting out fire for the purpose of cooking or obtaining warmth.

(4) No person shall enter and travel about in a forest travel permit area during a fire season except under and in accordance with the terms and conditions of his forest travel permit and in accordance with the regulations. 1955, c. 24, s. 2, *part*. ^{Travel prohibited except under permit}

(5) A forest travel permit may be limited as to duration, but in any event it expires on the 31st day of March next following the date of its issue. ^{Duration}

(6) A forest travel permit may be cancelled or suspended at any time by an officer, and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire set by him and leave the forest travel permit area. 1955, c. 24, s. 2, *part*. ^{Cancellation and suspension}

9.—(1) Whenever the Minister deems it expedient to close one or more fire districts owing to extremely hazardous fire conditions therein, he may make an order in writing closing the fire district or fire districts that he designates, specifying therein the period during which such closure shall be in force and prescribing therein such other terms and conditions as he deems proper. 1952, c. 31, s. 4 (1). ^{Closure of fire districts}

(2) The Minister shall provide for such notice as he deems necessary under the circumstances, and shall publish a notice of the order setting out the fire district or fire districts closed ^{Notice of order}

and the period of closure in such newspapers as in his opinion will give the greatest publicity. R.S.O. 1950, c. 144, s. 11 (2); 1952, c. 31, s. 4 (2).

Prohibition

(3) Unless specially authorized by the Minister, no person shall enter a closed district during the period of closure. R.S.O. 1950, c. 144, s. 11 (3); 1952, c. 31, s. 4 (3).

Burden of proof

R.S.O. 1960,
c. 349

(4) In any prosecution under subsection 3 in respect of an offence alleged to have been committed prior to publication of the order under *The Regulations Act*, the burden of proving he did not have actual notice of the order at the time the offence is alleged to have been committed is upon the accused. R.S.O. 1950, c. 144, s. 11 (4).

Work permits

10.—(1) Except where land is being cleared for agricultural purposes by a locatee, purchaser or patentee, every person, firm or corporation shall, in addition to any other requirement, obtain from an officer a work permit before,

(a) carrying on any logging, mining or industrial operation or before clearing land for a right-of-way for a road, trail, tote-road, ditch or flume, or for a telephone, telegraph, power or pipe line, or before clearing land to be flooded for water storage purposes, or before constructing a dam, bridge or camp or before carrying on any other woods operation of any kind liable to cause the accumulation of slash or debris on any land within a fire district;

(b) operating in a fire district a mill for the purpose of manufacturing timber. R.S.O. 1950, c. 144, s. 12 (1).

Description in permit

(2) The application for such permit shall be in the prescribed form, and, in addition to any other information required in the form, shall describe the lands upon which the proposed operation is to be carried on and shall state the character thereof, the number of men to be employed, the location of camps and the probable duration of the operation. R.S.O. 1950, c. 144, s. 12 (2); 1951, c. 28, s. 1 (1).

Powers of officer

(3) An officer may in the interest of forest protection,

(a) refuse permission for any operation or limit the period during which the operation may be carried on;

(b) require that any permittee carrying on an operation under this section maintain such fire-fighting equipment in good repair and at specified locations as the officer deems necessary for the control of fires that might be caused either directly or indirectly by the operation; or

- (c) cancel at any time any permit issued under this section.

(4) Where fire originates in a particular area in which a person, either by himself or his employees or someone on his behalf, is carrying on any of the operations referred to in clause *a* or *b* of subsection 1, in the absence of reasonable evidence that the fire may have occurred from causes other than such operations, the onus is upon that person to prove that the fire did not result from such operations, and in the absence of such proof that person shall bear the full cost of controlling and extinguishing the fire. R.S.O. 1950, c. 144, s. 12 (3, 4). ^{Cost of extinguishing fire}

(5) A work permit shall describe the lands upon which the proposed operation is to be carried on and may be limited as to duration, but in any event expires on the 31st day of March next following the date of its issue, and it may contain such other terms and conditions as the issuing officer deems necessary. R.S.O. 1950, c. 144, s. 12 (5); 1951, c. 28, s. 1 (2). ^{Expiration of permit}

(6) Where an officer finds an operation mentioned in subsection 1 being conducted without a permit, he may give notice that the operation must cease until the necessary permit has been secured, and any person, firm or corporation carrying on an operation after such notice has been given is, in addition to any penalty imposed, subject to a fine of \$25 for each day such operation is continued without a permit. ^{Per diem penalty}

(7) An officer may refuse to issue a permit under this section to any person, firm or corporation convicted of an offence under this section until such time as the person, firm or corporation has furnished the Department with a bond in such amount and subject to such conditions as are satisfactory to the officer. R.S.O. 1950, c. 144, s. 12 (6, 7). ^{Right to refuse permit}

11.—(1) Wherever an officer finds upon the land of any person in a fire district conditions existing that, in his opinion, may cause danger to life or property from fire, he may order the owner or person in control of the land to do what in the opinion of the officer is necessary to remove the danger, and in default may enter upon the land with such assistants as he deems necessary for the purpose of removing the conditions. ^{Power of officer as to clearing of land}

(2) The cost of any work done by him or his assistants under subsection 1 shall be borne and paid by the owner or person in control of the land and is recoverable by the Minister by action in any court of competent jurisdiction. ^{Cost of work}

(3) Any person who neglects or refuses to carry out any order given under the authority of subsection 1 is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 13. ^{Offence}

Power of
officer to
order the
installation
of spark
arresters
on chimneys

12.—(1) Wherever an officer finds in a forest in a fire district a building or structure having a chimney so constructed or used that, in his opinion, it may cause danger to life or property from fire, he may order the owner or person in control of the building or structure to install a spark arrester of such type as he approves and to do whatever else that in his opinion is necessary to remove the danger.

Offence

(2) Any person who neglects or refuses to carry out any order given under the authority of subsection 1 is guilty of an offence against this Act. 1953, c. 38, s. 4.

Interpre-
tation

13.—(1) In this section, "owner" means a locatee, purchaser from the Crown, assignee, purchaser or occupant.

Action by
municipality
in district

(2) Where it appears to the council of a municipality in a provisional judicial district that the condition of any land in the municipality or adjacent thereto is by reason of unfinished clearing a source of danger from fire to property in the municipality, the council may cause a statement of the facts to be made to the Minister.

Inquiry into
complaint

(3) The Minister shall make inquiry as to the conditions described by the council and shall report the result of his inquiry to the council with his recommendations as to what action, if any, should be taken thereon.

Notice to
owner to
clean up
land

(4) Where the Minister finds that cause for complaint exists owing to the unfinished clearing of land, the council may give notice to the owner of the land directing him, within a time to be named in the notice, to properly clear the land or such part thereof or to such extent as the Minister directs and designates in his report and to remove, so far as possible, all source of danger by fire.

Default of
owner

(5) If within the time so fixed the necessary work has not been done, the corporation of the municipality may cause the work to be done and the expenses of the corporation in doing the work is a charge upon the land and is payable by the owner forthwith. R.S.O. 1950, c. 144, s. 14 (1-5).

Recovery of
expenses
where land
is patented
in organized
territory

(6) If the land is patented and lies in an organized municipality, the treasurer of the municipal corporation doing the work shall notify the clerk of the municipality in which the land lies of the amount so due, and, if after thirty days after the date of the receipt of such notice the amount remains unpaid, the corporation of the municipality in which the land lies shall pay the amount to the treasurer of the municipality doing the work, and the corporation making such payment may thereupon register in the proper registry or land titles office a declaration under the hand of the reeve or other head of the municipality and the treasurer thereof and having the

corporate seal affixed thereto, stating that the municipal corporation claims a lien upon the land for the amount so paid and interest thereon at the rate of 6 per cent per annum from the date of the declaration.

(7) If the land is patented and lies in territory without municipal organization, the municipal corporation doing the work may register in the proper registry or land titles office a declaration to the same effect as the declaration mentioned in subsection 6 under the hand of the reeve or other head of the municipality and the treasurer thereof and having the corporate seal affixed thereto, stating that the corporation claims a lien upon the land for the amount of such expenses with interest at the rate of 6 per cent per annum from the date of the declaration.

Where land is patented in un-organized territory

(8) Upon the registration of the declaration mentioned in subsections 6 and 7, the municipal corporation making the declaration has a lien upon the land for the amount claimed and the lien has priority according to the general law of Ontario, and, if the claim remains unpaid for a period of three months after registration, it may be enforced by the sale of the land in the manner provided in the regulations. R.S.O. 1950, c. 144, s. 14 (6-8), *revised*.

Effect of registration

14.—(1) The Minister and any municipality, any licensee under *The Crown Timber Act* or any owner or tenant of railway lands under *The Railway Fire Charge Act* may enter into an agreement with respect to the prevention and control of forest fires.

Agreement for forest fire prevention and control
R.S.O. 1960, cc. 83, 343

(2) So long as such an agreement with a municipality is in effect, any expenses incurred by the Department in carrying out the agreement shall be paid out of the moneys that are appropriated therefor by the Legislature.

Effect of agreement, with municipality

(3) So long as such an agreement with a Crown timber licensee or with an owner or tenant of railway lands is in effect, subsection 4 of section 10 does not apply to that licensee, owner or tenant. 1959, c. 38, s. 1.

with Crown timber licensee or owner or tenant of railway lands

15.—(1) Every person clearing land for a right of way for a road, trail, tote-road, ditch or flume, or for a telephone, telegraph, power or pipe line, or clearing land to be flooded for water storage purposes, shall, subject to the provisions of this Act respecting fire permits, pile and burn on the land being cleared all refuse, non-merchantable timber, brush and other flammable material cut or accumulated thereon. R.S.O. 1950, c. 144, s. 16 (1); 1951, c. 28, s. 2 (1).

Destruction of refuse on land being cleared

(2) Every person who within 300 feet of the right of way of a railway causes an accumulation of flammable debris

Flammable matter near right of way

shall at the request of an officer immediately pile and, subject to the requirements of this Act concerning fire permits, burn the debris.

Timber cut
to fall on
owner's
land

(3) A person shall not fell or permit to be felled trees or brush in such manner that the trees or brush fall and remain on land not owned by him. R.S.O. 1950, c. 144, s. 16 (2, 3).

Clearing in
neighbour-
hood of
mills, etc.

(4) Every person having charge of a camp, a mine, a saw-mill, or a portable or stationary engine that is located within one-half mile of a forest or woodland shall have the area surrounding the camp, mine, sawmill or engine cleared of flammable material for a distance of at least 300 feet and such further distance as in the opinion of an officer is required. R.S.O. 1950, c. 144, s. 16 (4); 1951, c. 28, s. 2 (2).

Accumula-
tion of
flammable
refuse

(5) No person shall within one-half mile of a village, town or city accumulate flammable debris or permit any such accumulation to remain on any property owned by him or under his control. R.S.O. 1950, c. 144, s. 16 (5).

Duty of
municipality

16. Every municipality in a fire district shall do all necessary things to extinguish grass, brush or forest fires within its limits, and the costs and expenses thereof shall be borne by it, provided that if the action taken by it in fighting any such fires is in the opinion of an officer not adequate, the officer may do what in his opinion is necessary to control and extinguish them, and any costs and expenses incurred by the Department in controlling or extinguishing them is a debt due by the municipality to the Department and upon presentation of an account of such costs and expenses certified by the Minister, the treasurer of the municipality shall pay the same. R.S.O. 1950, c. 144, s. 17.

Contribu-
tion by De-
partment

17.—(1) Upon satisfactory proof being furnished by the municipality that a fire has started on Crown land within its limits, half of the total cost of extinguishing the fire shall be borne by the Department.

Fires on
Crown lands

(2) Where a fire is confined entirely to Crown lands, other than the lands of an owner as defined by subsection 1 of section 13, the total cost of extinguishing the fire shall be borne by the Department. R.S.O. 1950, c. 144, s. 18.

Right to
summon
assistance

18.—(1) For the purpose of controlling and extinguishing a fire, an officer may use any privately-owned equipment and may employ or summon the assistance of any male person between the ages of eighteen and sixty years, excepting only trainmen, boat crews, local telephone operators, telegraphers and despatchers on duty, doctors and persons physically unfit.

(2) Every person who refuses or neglects to provide any privately-owned equipment or to render assistance when required under this section is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 19.

19.—(1) Every owner, within the meaning of subsection 1 of section 13, of land upon which there is a fire other than, <sup>Extinguish-
ment of fires</sup>

- (a) a fire set out for cooking or obtaining warmth and kept under control; or
- (b) a fire set out under the authority of this Act and kept under control,

shall use all reasonable efforts to extinguish the fire and shall report it without undue delay to an officer, and in any prosecution or action the onus is upon him to prove that he used all such reasonable efforts and that he so reported the fire.

(2) In addition to the other penalties provided by this Act, every owner who contravenes subsection 1 is liable for all expenses incurred by the Department in attempting to extinguish the fire upon the land of which he is the owner or upon any land to which it spreads, and the amount thereof is recoverable with costs as a debt due by action in any court of competent jurisdiction at the suit of the Minister. R.S.O. 1950, c. 144, s. 20.

20.—(1) During a fire season, no person, company or corporation in a fire district shall, ^{Offences}

- (a) use or operate within a quarter of a mile of a forest, slashing or bushland any engine that is not provided with a practical and efficient device for arresting sparks, together with an adequate device for preventing the escape of fire or live coals from all ash pans and fire boxes, and that does not comply in all respects with the regulations; or <sup>Using
engines
without
prescribed
safeguards</sup>

- (b) destroy any wood or waste material by fire in a burner or destructor operated at or near a mill or manufactory, or operate any power-producing plant using in connection therewith a smoke-stack, chimney or other spark-emitting outlet, without installing and maintaining on such burner or destructor or on such smoke-stack, chimney or spark-emitting outlet a safe and suitable device for arresting sparks complying in all respects with the regulations. <sup>Destroying
waste, etc.
without
spark
arresters</sup>
- R.S.O. 1950, c. 144, s. 21 (1); 1953, c. 38, s. 5.

(2) No railway company operating in a fire district shall permit fire, live coals or ashes to be deposited on its tracks or right of way unless they are extinguished immediately thereafter, except in pits provided for the purpose. <sup>Dropping
fire or
live coal</sup>

Injunction

(3) Notwithstanding the penal provisions of this Act, any court of competent jurisdiction may upon the application of the Minister grant an injunction against the use of any locomotive, engine, burner or destructor until it has been equipped with safety appliances to the satisfaction of the Minister. R.S.O. 1950, c. 144, s. 21 (2, 3).

Duty of
engineman

21. Every person in charge of an engine that is not subject to the jurisdiction of the Board of Transport Commissioners for Canada shall see that all safety appliances required by this Act and the regulations are properly used and applied, and in default he is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 22.

Particular
offences

22. No person shall,

- (a) throw or drop a burning match, ashes from a pipe, lighted cigarette, cigar or other burning substance in a fire district without extinguishing it;
- (b) discharge a firearm in a fire district without ensuring that the wadding from the firearm is extinguished;
- (c) without lawful authority, destroy, deface or remove any notice posted under this Act or the regulations; or
- (d) without lawful authority, destroy, damage or remove any equipment placed in the forest for the purpose of protecting the forests from fire. R.S.O. 1950, c. 144, s. 23.

Right of
officer to
enter on
premises

23. Every officer has the right while in the performance of his duties to enter into and upon any lands and premises, other than a private dwelling, store, storehouse, office or farm building, and every person who hinders, obstructs and impedes him in the performance of his duty is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 24.

Information
to be given
to officer by
tourists, etc.

24. Every person using or travelling in a forest shall, upon request, give an officer or other authorized officer of the Crown, information as to his name, address, routes to be followed, location of camps and any other information pertaining to the protection of the forest from fire, and any person who refuses to give such information is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 25.

Offences

25.—(1) Every person who disobeys or refuses or neglects to carry out any of the provisions of this Act or the regulations or of any order made thereunder is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$300 or to imprisonment for a term of not more than three months, or to both, and such person is also liable to the Department for any expenses incurred by

it in endeavouring to control or extinguish any fire caused by or resulting from such disobedience, refusal or neglect. R.S.O. 1950, c. 144, s. 26 (1), *amended*.

(2) The amount of any expenses for which a person is ^{Expenses, recovery of} liable to the Department under subsection 1 are recoverable with costs as a debt due by action in any court of competent jurisdiction at the suit of the Minister, but, where the amount claimed does not exceed \$300 and proceedings are taken under *The Summary Convictions Act* in respect of the disobedience, ^{R.S.O. 1960, c. 387} refusal or neglect, the magistrate, upon making a conviction, may order payment of such amount to the Minister and every such order may be enforced in the same manner as a division court judgment. R.S.O. 1950, c. 144, s. 26 (2).

26. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing forms and providing for their use;
- (b) respecting the granting of permits and prescribing the terms and conditions thereof;
- (c) prescribing the precautions to be taken in the use of fire under a permit, and the appliances, implements and apparatus to be kept at hand by the holders of permits;
- (d) prescribing the circumstances and conditions under which fire may be set out or used without a permit, and under which fire may be used out of doors for cooking or obtaining warmth;
- (e) providing for the making of fire guards and the taking of other precautionary measures when the Minister deems danger from fire to any town or settlement specially imminent;
- (f) regulating or preventing the piling or accumulation of brushwood, debris and other flammable material;
- (g) prescribing the use of fire protective appliances on engines, and the precautions to be taken for preventing forest fires being caused by the use and operation of engines;
- (h) prescribing the manner in which land may be sold under subsection 8 of section 13;
- (i) providing for the collection of the cost of any work done by an officer or by a municipality under the authority of this Act in cases not provided for under this Act;

- (j) respecting any matter necessary or advisable to carry out effectively forest fire prevention and the intent and purpose of this Act. R.S.O. 1950, c. 144, s. 27; 1953, c. 38, s. 6.
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CHAPTER 153

The Forestry Act

1. In this Act,

Interpre-
tation

- (a) "Minister" means the Minister of Lands and Forests;
- (b) "nursery stock" means coniferous or hardwood seedlings, transplants, grafts or trees propagated or grown in a nursery and having the roots attached, and includes cuttings having or not having the roots attached;
- (c) "owner" means a person having any right, title, interest or equity in land, and includes the holder of a licence under *The Crown Timber Act*;
- (d) "private forest reserve" means land declared to be a private forest reserve under this Act;
- (e) "regulations" means the regulations made under this Act. 1952, c. 32, s. 1.

R.S.O. 1960,
c. 83

2.—(1) For the purposes of this section, "forestry purposes" means primarily the production of wood and wood products, and includes such secondary purposes as proper environmental conditions for wild life, protection against floods and erosion, recreation, and protection and production of water supplies.

Interpre-
tation

(2) The Minister may enter into agreement with the owners of lands that are suitable for forestry purposes for the management of such lands upon such terms and conditions as he deems proper, but no such agreement shall be entered into for a term of less than twenty years.

Agreements
as to
forestry
develop-
ment

(3) The Minister may make grants out of the moneys appropriated therefor by the Legislature to any conservation authority or to any municipality for the purpose of assisting it in the acquisition of lands that are suitable for forestry purposes and that are to be managed under an agreement entered into under subsection 2 of such sums as are provided for in the agreement.

Grants

(4) A conservation authority or municipality that has entered into an agreement under subsection 2 shall not, without the approval of the Lieutenant Governor in Council,

Forestry
purposes
only

use any lands in respect of which grants have been made under subsection 3 for any purpose that is inconsistent with forestry purposes at any time during the life of the agreement or at any time thereafter, and the conservation authority or municipality, as the case may be, unless the order of approval of the Lieutenant Governor in Council otherwise provides, shall repay the province all grants to it under the agreement in respect of the lands that are used for a purpose that is inconsistent with forestry purposes.

Sale of
lands

(5) Lands in respect of which grants have been made under subsection 3 shall not, without the approval of the Lieutenant Governor in Council, be sold, leased or otherwise disposed of during the life of the agreement or at any time thereafter, and the proceeds from any sale, lease or other disposition of any such lands shall be shared equally by the conservation authority or municipality, as the case may be, and the Province.

Exception

(6) Subsection 5 does not apply to a sale, lease or other disposition for the uses of Ontario. 1960, c. 39, s. 1.

Registration
of agree-
ments

3. The Minister may direct that an agreement entered into under section 2 shall be registered by the owner of the land in respect of which the agreement is made in the proper registry or land titles office, and thereupon such agreement is binding upon and ensures to the benefit of every successor-in-title to such owner during the term of the agreement. 1952, c. 32, s. 3.

Right of
entry and
inspection

4. The Minister or any person appointed by him for the purpose may, without the consent of the owner, enter upon any land and make an inspection thereof and survey and examine the timber and other natural resources thereon in order to determine the suitability of the land for forestry purposes. 1952, c. 32, s. 4.

Declaring
forest land
private
forest
reserve

5.—(1) The Lieutenant Governor in Council may, with the consent of the owner of any land covered with forest or suitable for reforestation, declare the land to be a private forest reserve.

Registra-
tion of
declaration

(2) The declaration shall be registered forthwith by the owner in the proper registry or land titles office and thereupon the land constitutes in perpetuity a private forest reserve.

Cutting and
removing
trees

(3) The owner of a private forest reserve shall not cut or remove any trees growing thereon without the consent of the Minister. 1952, c. 32, s. 5.

6.—(1) Where the letters patent granting any land declared to be a private forest reserve under this Act contain a reservation of any class or kind of timber, the Minister, upon application and payment by the owner of a purchase price determined by the Minister, may make an order releasing the land from such reservation. Release of reserved timber rights

(2) Where lands are released from a reservation of any class or kind of timber under subsection 1, the cutting or removal of such timber is subject to subsection 3 of section 5. 1952, c. 32, s. 6. Effect of release

7.—(1) The Lieutenant Governor in Council may authorize the Minister to establish one or more nurseries for the growing and production of nursery stock. Establishment of nurseries

(2) The Minister, upon application therefor, may furnish nursery stock to any owner upon such terms and conditions as the regulations prescribe. 1952, c. 32, s. 7. Furnishing of nursery stock

(3) The Minister may authorize the furnishing of nursery stock to any public authority or any association, board, institute, society or other organization for educational or scientific purposes upon such terms and conditions as he deems proper. 1953, c. 39, s. 1. Idem

(4) No person shall, directly or indirectly, sell or offer for sale or dispose of by gift or otherwise any nursery stock furnished under this Act. 1952, c. 32, s. 8. Sale, etc., of nursery stock prohibited

(5) No person shall knowingly make any false statement of fact in an application to the Minister for nursery stock. 1952, c. 32, s. 9. False statement in application

8. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$500. 1952, c. 32, s. 10. Offence

9. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prohibiting or regulating and governing the running at large of live stock or other domestic animals in private forest reserves;
- (b) respecting the preservation of trees on private forest reserves;
- (c) governing the form of and the manner in which application for nursery stock shall be made and prescribing the manner and time of payment therefor where a charge is made;

- (*d*) prescribing the purposes for which nursery stock may or may not be furnished;
 - (*e*) prescribing the classes of land in respect of which and the terms and conditions under which nursery stock may be furnished free of charge or with a charge;
 - (*f*) fixing the charges to be made for nursery stock or any species or type thereof;
 - (*g*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 32, s. 11.
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CHAPTER 154

The Fraudulent Conveyances Act

1. In this Act,

Interpre-
tation

- (a) "conveyance" includes gift, grant, alienation, bargain, charge, encumbrance, limitation of use or uses of, in, to or out of real property or personal property by writing or otherwise;
- (b) "personal property" includes goods, chattels, effects, bills, bonds, notes and securities, and shares, dividends, premiums and bonuses in a bank, company or corporation, and any interest therein;
- (c) "real property" includes lands, tenements, hereditaments and any estate or interest therein. R.S.O. 1950, c. 148, s. 1.

2. Every conveyance of real property or personal property and every bond, suit, judgment and execution heretofore or hereafter made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures are void as against such persons and their assigns. R.S.O. 1950, c. 148, s. 2, *revised*.

Where
conveyances
void as
against
creditors

3. Section 2 does not apply to an estate or interest in real property or personal property conveyed upon good consideration and *bona fide* to a person not having at the time of the conveyance to him notice or knowledge of the intent set forth in that section. R.S.O. 1950, c. 148, s. 4, *revised*.

Where s. 2
does not
apply

4. Section 2 applies to every conveyance executed with the intent set forth in that section notwithstanding that it was executed upon a valuable consideration and with the intention, as between the parties to it, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless it is protected under section 3 by reason of *bona fides* and want of notice or knowledge on the part of the purchaser. R.S.O. 1950, c. 148, s. 5, *revised*.

Where s. 2
applies

When
fraudulent
conveyances
declared
void as
against
purchasers

5. Every conveyance of real property heretofore or hereafter made with intent to defraud and deceive the purchaser shall be deemed to be void only as against that person and his assigns and all persons lawfully claiming under him or them who have purchased or hereafter purchase for money or other good consideration the same real property or a part thereof. R.S.O. 1950, c. 148, s. 6, *revised*.

Where s. 5
does not
apply

6. Section 5 does not apply to and shall not be construed to impeach, defeat or make void a conveyance of real property made *bona fide* and for good consideration. R.S.O. 1950, c. 148, s. 7, *revised*.

Convey-
ances made
revocable

7.—(1) If a person makes a conveyance of real property with a clause, provision, article, or condition of revocation, determination or alteration at his will or pleasure, and after such conveyance bargains, sells, demises, grants, conveys or charges such real property or a part thereof to a person for money or other good consideration paid or given, such first conveyance not being by him revoked, made void or altered according to the power and authority so reserved or expressed therein, then such first conveyance as touching the real property so after bargained, sold, conveyed, demised or charged is void against the bargainees, vendees, lessees, grantees, their heirs, successors, and their assigns and against every person lawfully claiming under them.

Saving as to
mortgages

(2) No lawful mortgage made *bona fide*, and without fraud or covin, and upon good consideration shall be impeached or impaired by force of this Act, but it has the like force and effect as if this Act had not been passed. R.S.O. 1950, c. 148, s. 8, *revised*.

Validity of
voluntary
conveyance,
etc., exe-
cuted in
good faith
and duly
registered

8.—(1) Nothing in section 5, 6 or 7 extends to a conveyance that is executed in good faith and duly registered in the proper registry or land titles office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to a subsequent purchaser from the same grantor of the same real property or a part thereof, nor is such a conveyance merely by reason of the absence of a valuable consideration void as against such purchaser or his heirs, executors, administrators or assigns or any person claiming by, from or under any of them. R.S.O. 1950, c. 148, s. 9, *revised*.

Effect of
subs. 1

(2) Nothing in subsection 1 has the effect of making valid an instrument that is for any reason, other than or in addition to the absence of a valuable consideration, void under

section 5, 6 or 7 or otherwise, nor has the effect of making valid an instrument as against a purchaser who had before the 28th day of February, 1868, entered into a binding contract for or received his conveyance upon such purchase. R.S.O. 1950, c. 148, s. 10.

CHAPTER 155

The Fraudulent Debtors Arrest Act**1. In this Act,**Interpre-
tation

- (a) "county" includes a provisional judicial district;
- (b) "county court" includes a district court;
- (c) "sheriff" includes any officer to whom an order for arrest is delivered for execution. R.S.O. 1950, c. 149, s. 1.

2.—(1) Where a person by affidavit of himself or some other person shows to the satisfaction of a judge of the Supreme Court or of a county court that he has a cause of action against a person liable to arrest to the amount of not less than \$100, and also such facts and circumstances as satisfy the judge that there is a good and probable cause for believing that such person, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the applicant in particular, the judge may order that the person against whom the application is made be arrested and give security for such sum as the judge thinks fit.

When order
for arrest of
debtor may
be made

(2) A judge of a county court may make an order for arrest in the Supreme Court as well as in his own court.

Powers of
county court
judge

(3) The order may be made as well before as after the action has been commenced.

Order before
action

(4) Where the order is made before action, unless an action is commenced and notice thereof is given to the sheriff within two days after the date of the order or within such further time as the judge by the order allows, the order shall be superseded and the person against whom it was made is, if under arrest, entitled to be discharged out of custody. R.S.O. 1950, c. 149, s. 2.

When action
to be
brought

3. An order for arrest shall be in force for two months from its date and no longer, but on its expiration a new order may be obtained in the manner provided by this Act. R.S.O. 1950, c. 149, s. 3.

Term of
validity

Effect of
orders for
payment

4.—(1) Every order of the Supreme Court or of a county court directing payment of money or of costs, charges or expenses, so far as it relates thereto, shall be deemed a judgment, and the person to receive payment a creditor, and the person to make payment a debtor, within the meaning of this Act.

Who to be
deemed the
plaintiff,
etc.

(2) Where the judgment or order directs the payment of money into court or otherwise than to a person, the person having the carriage of the judgment or order, so far as relates to the payment, shall be deemed the person to receive payment or the plaintiff, as the case may be, within the meaning of this Act. R.S.O. 1950, c. 149, s. 4.

Limit of
security in
alimony

5. Where an order for arrest is made in an action for alimony, the amount for which security is to be given shall not exceed what may be considered sufficient to cover the amount of future alimony for two years, besides arrears and costs, but may be for less, at the discretion of the judge. R.S.O. 1950, c. 149, s. 5.

Concurrent
order for
arrest

6. Concurrent or duplicate orders may be issued from time to time in like manner and form as the original order, and shall be in force for the same period as the original order and no longer. R.S.O. 1950, c. 149, s. 6.

Costs

7. Unless otherwise ordered, the costs of and incidental to an order for arrest are costs in the cause. R.S.O. 1950, c. 149, s. 7.

Order and
copies to be
delivered to
sheriff

8. The order and as many copies thereof as there are persons intended to be arrested thereon shall be delivered to the sheriff, and the plaintiff or his solicitor may direct the sheriff to arrest one or more of the persons there named, which direction shall be obeyed by the sheriff. R.S.O. 1950, c. 149, s. 8.

Time within
which
arrests to
be made

9. The sheriff shall, within two months from the date of the order, but not afterwards, execute it according to the exigency thereof, and shall upon or immediately after its execution cause one copy of it to be delivered to the person whom he is directed to arrest, and shall exhibit the original order to him. R.S.O. 1950, c. 149, s. 9.

Endorse-
ment of date

10. The sheriff shall, within two days after the arrest, endorse on the order the true date of the arrest. R.S.O. 1950, c. 149, s. 10.

Privileged
persons

11. No person is subject to arrest who, by reason of any privilege, usage or otherwise, is by law exempt therefrom. R.S.O. 1950, c. 149, s. 11.

12. No person is liable to arrest for contempt for non-payment of any sum of money or of any costs, charges or expenses payable by a judgment or order of the Supreme Court or of a judge thereof, or of a county court or of a judge thereof, and no person is liable to arrest for non-payment of costs. R.S.O. 1950, c. 149, s. 12.

Arrest for non-payment of money, costs, etc., abolished

13. A married woman is not liable to arrest on mesne or final process. R.S.O. 1950, c. 149, s. 13.

Married women

14. The security in the action to be given by the defendant pursuant to the order for arrest may be by payment into court of the amount mentioned in the order, or by a bond to the plaintiff by the defendant and two sufficient sureties, or, with the leave of the judge or officer who allows the bond, either one surety or more than two, or, with the plaintiff's consent, by any other form of security. R.S.O. 1950, c. 149, s. 14.

Security by defendant in action

15. Where the security is given by bond, the condition shall be that the defendant will pay the amount by any judgment in the action adjudged to be recovered or directed to be paid, either as a debt or for damages or costs, or will render himself to the custody of the sheriff of the county in which the action has been commenced or that the sureties will do so for him. R.S.O. 1950, c. 149, s. 15.

Condition of bond

16. A person who has been indemnified for so doing by a solicitor concerned for the defendant shall not be a surety in such bond. R.S.O. 1950, c. 149, s. 16.

Persons ineligible as sureties

17. Where the plaintiff's claim exceeds \$4,000, it is sufficient for each surety to justify in \$4,000 beyond the amount of the claim. R.S.O. 1950, c. 149, s. 17.

Justification when claim over \$4,000

18. The bond shall be filed in the office in which the action was commenced, and may be allowed by the proper officer in such office or by the local judge or master upon service upon the plaintiff or his solicitor of notice of the filing of the bond and of the names and addresses of the sureties and a copy of an appointment from such officer, local judge, or master at least forty-eight hours, unless otherwise directed by the officer, judge or master, before the time named in the appointment. R.S.O. 1950, c. 149, s. 18.

Allowance of bond

19.—(1) Where security is desired to be given by payment of money into court, it may be paid in without an order, and stands as security to the plaintiff that the defendant will pay the amount by the judgment in the action adjudged

Security by payment into court

to be recovered or directed to be paid either as a debt or for damages or costs, or will render himself to the custody of the sheriff of the county in which the action has been commenced.

Substitution
of other
security
after pay-
ment into
court

(2) After the payment of money into court, a bond or other security mentioned in section 14 may be substituted therefor, and the money paid in shall be repaid upon the production of a certificate of the allowance of the bond or other security signed by the officer allowing it or by the plaintiff's solicitor. R.S.O. 1950, c. 149, s. 19.

Control of
court

20.—(1) The money paid in and the security and all proceedings thereon are subject to the order and control of the court or a judge.

Discharge of
defendant
on giving
security

(2) The delivery to the sheriff executing the order for arrest of a certificate of the Accountant of the Supreme Court of the payment of the money into court, or of a certificate of the allowance of the bond or other security signed by the officer allowing it, or by the plaintiff or his solicitor, to the sheriff, entitles the defendant to be discharged out of custody. R.S.O. 1950, c. 149, s. 20.

Time for
delivery of
statement
of claim

21. Where a defendant is taken or detained in custody under an order for arrest in default of giving security, the plaintiff, if he has not already delivered his statement of claim, shall deliver it within one month after the arrest, or within the time prescribed by the rules of the Supreme Court, whichever is the earlier date, otherwise the defendant, unless further time is allowed by the court or a judge, is entitled to be discharged out of custody. R.S.O. 1950, c. 149, s. 21.

Order to
bring body
into court

22.—(1) Where, on the expiration of an order to return an order for arrest, the sheriff returns *cepi corpus* thereon, an order may thereupon issue requiring the sheriff, within six days after the service of the order, to bring the defendant into court, by bringing in the body or by causing security in the action to be given, and, if the sheriff does not obey the order, an attachment may be granted for disobedience thereto.

Where
sheriff
goes out of
office

(2) Where a sheriff, before going out of office, makes an arrest and takes security under the order for arrest and makes a return of *cepi corpus*, the order shall, within the time allowed by law, be directed to him notwithstanding that he may be out of office before the order is issued. R.S.O. 1950, c. 149, s. 22.

23. An order shall not be made for setting aside an attachment regularly obtained against a sheriff for not bringing in the body, or for staying proceedings regularly commenced on the assignment of a bail bond, unless the application for the order, if made on the part of the original defendant, be grounded on an affidavit of merits, or, if made on the part of the sheriff, or a surety, or any officer of the sheriff, unless the application be grounded on an affidavit showing that the application is really and truly made on the part of the sheriff, or surety, or officer of the sheriff, as the case may be, at his own or their own expense, and for his or their indemnity only, and without collusion with the original defendant. R.S.O. 1950, c. 149, s. 23.

Order to set aside attachment or stay proceedings on bond, affidavit of merits, etc.

24.—(1) A person arrested upon an order for arrest may apply to the court or a judge for an order that he be discharged out of custody, and the court or judge, subject to appeal, may make such order thereon as seems just.

Application for discharge from custody by defendant

(2) A judge of a county court making an order for arrest, whether in the Supreme Court or in his own court, shall, in respect to such order and the arrest made thereupon, possess all the powers of a judge of the Supreme Court under this section, and may in like manner, on application to him, order the defendant to be discharged out of custody, or make such order therein as to him seems just.

Powers of county court judge

(3) Any such order made by a judge of the county court may be discharged or varied by the Court of Appeal. R.S.O. 1950, c. 149, s. 24.

Discharge or variance of order

25. Where the defendant is described in the order for arrest, or affidavit therefor, by initials, or by wrong name, or without a given name, he shall not for that cause be discharged out of custody or the security be delivered up to be cancelled. R.S.O. 1950, c. 149, s. 25.

Misnomer of defendant in order for arrest

26.—(1) The sureties may at any time surrender their principal to the sheriff of the county in which the principal is resident or found, and the sheriff shall receive the principal into his custody and give the sureties a certificate under his hand and seal of office of the surrender, for which certificate he is entitled to the sum of \$1.

Surrender of debtor by sureties

(2) A judge of the court in which the action is pending, upon proof of due notice to the plaintiff or his solicitor of the surrender, and upon production of the sheriff's certificate thereof, shall order the security to be cancelled, and thereupon all sureties are discharged.

Order to cancel security and discharge of sureties

Transfer of
person
arrested out
of his
county

(3) Where a person is surrendered by his sureties to the sheriff of a county other than that in which he resides or carries on business, he is entitled to be transferred to the jail of his own county on prepaying the expenses of his removal, and the sheriff in whose county he was arrested may transfer him accordingly, but, if the sheriff declines to act without an order of the court or a judge, such order may be made on the application of the person arrested, upon notice to the opposite party. R.S.O. 1950, c. 149, s. 26.

When ca. sa.
may issue
without
order

27.—(1) Where a defendant has been arrested and has given security in the action pursuant to the order for arrest or is imprisoned or detained in custody in default of giving security, unless he has been discharged under section 51, any judgment that the plaintiff may obtain in the action may be enforced by writ of *capias ad satisfaciendum* without an order therefor, but where the defendant is so imprisoned or detained in custody, the plaintiff shall issue such writ within fourteen days after he has become entitled to enter final judgment.

When order
for ca. sa.
necessary

(2) Where the defendant has not been arrested or has been discharged under section 51, if the plaintiff, by the affidavit of himself or of some other person, shows to the satisfaction of a judge of the Supreme Court, or, where the action is in a county court, to a judge of such court, that he has recovered judgment against the defendant for not less than \$100, exclusive of costs, and also such facts and circumstances as satisfy the judge that there is good and probable cause for believing either that the defendant, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the plaintiff in particular, or that the defendant has parted with his property or made some secret or fraudulent conveyance thereof in order to prevent its being taken in execution, the judge may order that a writ of *capias ad satisfaciendum* be issued.

Ca. sa. when
returnable

(3) Every writ of *capias ad satisfaciendum* against a debtor who has not been previously arrested or who has not given security pursuant to an order for arrest is returnable immediately after its execution and continues in force for two months from the day of its issue and no longer, but on its expiration another writ may be obtained from a judge's order as provided by subsection 2. R.S.O. 1950, c. 149, s. 27.

Ca. sa. to fix
liability of
sureties

28.—(1) A writ of *capias ad satisfaciendum* issued for the purpose of fixing the liability of the sureties is returnable on a day certain to be named therein not later than fourteen days from the date of the teste of the writ, and shall be

delivered to the sheriff of the county in which the action was commenced eight clear days before the return day so named.

(2) The sureties shall take notice of the delivery of the writ, ^{Duty of sureties} and it is not necessary for the plaintiff to give them any further or other notice thereof. R.S.O. 1950, c. 149, s. 28.

29.—(1) An action shall not be brought upon the bond or other security given in an action pursuant to an order for arrest until after the return of a writ of *capias ad satisfaciendum* ^{Postponement of action on security} for the purpose of fixing the liability of the sureties.

(2) To such a writ the sheriff may return *non est inventus*, ^{Return to writ} without taking any steps to arrest the defendant, unless he is already in, or is rendered into, his custody. R.S.O. 1950, c. 149, s. 29.

30. In an action upon the bond, the sureties are only liable ^{Limitation of liability of sureties} for the amount recovered by the plaintiff in the action in which the bond was given and the costs of suit, not exceeding in the whole the amount of the penalty in the bond. R.S.O. 1950, c. 149, s. 30.

31.—(1) Subject to section 26, where the plaintiff brings an action on the bond or other security, the sureties are at liberty to satisfy the bond or security by rendering their principal to the custody of the sheriff of the county in which the action was brought at any time within eight days next after service of the writ of summons upon them, but not at any later period, and, upon notice thereof being given to the plaintiff or his solicitor, the action shall be stayed and the plaintiff is entitled to the costs of the action up to the date of service of the notice. ^{Sureties' right to surrender their principal}

(2) Such costs may be taxed upon production of the notice ^{Costs} so served without an order, and, if not paid within four days from taxation, the plaintiff may, without an order, sign judgment therefor. R.S.O. 1950, c. 149, s. 31.

32. The sheriff, at the request of the person arrested, and upon being prepaid a sum of money sufficient to cover the sheriff's reasonable fees and expenses incident to the delay, shall grant to such person a delay of twenty-four hours after the arrest before committing him to jail, and shall take him for the twenty-four hours to some safe and convenient house in his county. ^{Delay of 24 hours before committal} R.S.O. 1950, c. 149, s. 32.

33. A person arrested and imprisoned in any other county than that in which he resides or carries on business is entitled to be transferred to the jail of his own county on prepaying the expenses of his removal, and the sheriff in whose county he was arrested may transfer him accordingly, but, if the ^{Right of person arrested to be transferred to jail of his own county}

sheriff declines to act without an order of the court or a judge, such order shall be made on the application of the person arrested, upon notice to the opposite party. R.S.O. 1950, c. 149, s. 33.

Security
from debtors
in custody

34.—(1) At any time before the expiration of ten days from the date of the arrest the defendant is entitled to be released from custody upon paying into court, without special order, the amount named in the order for arrest, together with \$40, to answer the costs that have accrued up to the time limited for giving security in the action pursuant to the order for arrest, or upon giving to the sheriff a bail bond with two sufficient sureties in a penal sum double the amount named in the order for arrest, and upon payment of the sheriff's fees, including the cost of the bond.

Custody of
money paid

(2) Moneys so paid into court shall remain in court, subject to order of the court or a judge, as security to the plaintiff that the defendant will cause security in the action to be given pursuant to the order for arrest. R.S.O. 1950, c. 149, s. 34.

Security
from
debtors in
custody

35. The sheriff may take from a debtor confined in the jail of his county upon mesne process a bond, with not less than two and not more than four sufficient sureties, to be jointly and severally bound in a penal sum of double the amount for which the debtor is so confined, conditioned that the debtor will observe and obey all notices or orders of court touching or concerning the debtor, or his appearing to be examined *viva voce*, or his returning and being remanded into close custody, and that upon reasonable notice to them or any of them requiring them so to do they will produce the debtor to the sheriff, and also the debtor will, within thirty days, cause the bond, or the bond that may be substituted for it according to the provisions hereinafter contained, to be allowed by the judge of the county court of the county wherein the debtor is confined, and the allowance to be endorsed thereon by the judge. R.S.O. 1950, c. 149, s. 35.

Affidavits of
sufficiency

36. The sheriff may also require each surety, where there are only two, to make oath in writing, to be annexed to the bond, that he is a freeholder or householder in some part of Ontario (stating where), and is worth the sum for which the debtor is in custody (naming it) and \$200 more, over and above what will pay all his debts, or, where there are more than two sureties, he may require each surety to make oath as aforesaid, that he is a freeholder or householder as aforesaid, and is worth one-half the sum for which the debtor is in custody (naming it), and \$200 more, over and above what will pay all his debts. R.S.O. 1950, c. 149, s. 36.

37. Upon receipt of the bond, accompanied by an affidavit of a subscribing witness of the due execution thereof, and by the sureties' affidavits of sufficiency, if required by the sheriff, the sheriff may permit the debtor to go out of close custody, and, so long as the debtor in all respects observes the conditions of the bond, the sheriff is not liable to the party at whose suit the debtor is confined in any action for the escape of the debtor from jail. R.S.O. 1950, c. 149, s. 37.

When sheriff may allow the debtor out of close custody

38.—(1) The debtor may apply for the allowance of the bond upon four clear days' notice in writing to the plaintiff or his solicitor, who at the time of the application may object to the sufficiency of the sureties, and if the judge refuses to allow the bond, the debtor may cause another bond, made to the sheriff in the same terms and under the same conditions, to be executed without further application to the sheriff, and may apply in like manner and upon like notice for the allowance thereof, and the bond, if allowed and endorsed as aforesaid, shall be substituted for and have the like effect in all respects as the bond first given to the sheriff would have had upon the allowance thereof and the like remedies may be had thereon, and the first given bond thereupon becomes void.

Application for allowance of bond

(2) The sheriff shall, upon reasonable notice given by the debtor, cause the bond to be produced before the judge. R.S.O. 1950, c. 149, s. 38.

Production of bond before judge

39. Upon the allowance being so endorsed, the sheriff is discharged from all responsibility respecting the debtor, unless he is again committed to the close custody of the sheriff in due form of law. R.S.O. 1950, c. 149, s. 39.

Sheriff's discharge from responsibility

40. In lieu of giving the bond provided for by section 35, the debtor or any person on his behalf may deposit with the sheriff the amount for which he is arrested, and, where the person is held under an order for arrest, the further sum of \$40, and such deposit stands as security in place and for the purposes of the bond provided for by sections 34 and 35, and the money so deposited is subject to the order of a judge of the court in which the order of arrest was made, but such deposit is repayable to the person making it upon the sheriff being furnished with a certificate of the judge or officer who allows it, that the bond provided for by sections 34 and 35 has been perfected and allowed. R.S.O. 1950, c. 149, s. 40.

Deposit in lieu of bail on arrest under civil process

41.—(1) Where the sheriff has good reason to believe that a surety after entering into the bond has become insufficient to pay the amount sworn to in his affidavit of sufficiency, the sheriff may again arrest the debtor and detain him in close custody, and such arrest discharges the sureties from all liability on the bond.

Retaking the debtor if sureties become insufficient

Effect of
such arrest
on liability
of sureties

(2) The sureties of the debtor may set up the arrest and detention as a defence to an action brought against them upon the bond entered into by them, and the defence, if sustained in proof, wholly discharges them.

New bond

(3) The debtor may again be allowed to go out of close custody on giving to the sheriff a new bond with sureties as aforesaid. R.S.O. 1950, c. 149, s. 41.

Assignment
of bail bond

42.—(1) Where default is made in compliance with the conditions of a bail bond to the sheriff, the sheriff shall, upon the request and at the cost of the plaintiff, assign the bond to him, and he may bring an action thereon in his own name.

Discharge of
sheriff's
liability

(2) Upon executing the assignment, the sheriff is thenceforth discharged from all liability on account of the debtor or his safe custody.

Rearrest in
default of
action

(3) Where the bond is taken under section 34, if the plaintiff does not take an assignment of it within five days after default, the sheriff may rearrest the defendant in any county and bring him into his own county and detain him in custody until he has given and obtained the allowance of security in the action pursuant to the order for arrest. R.S.O. 1950, c. 149, s. 42.

Defendant's
right to give
security
preserved

43. Notwithstanding the default, the defendant may, at any time before judgment in an action brought upon the bail bond to the sheriff or before the expiration of any order to bring in the body, give security in the original action pursuant to the order for arrest. R.S.O. 1950, c. 149, s. 43.

Stay of
action on
bail bond

44. The plaintiff is not at liberty to proceed upon the bail bond to the sheriff pending an order to bring in the body of the defendant. R.S.O. 1950, c. 149, s. 44.

Power of
court to
relieve

45. Where an action is brought upon the bail bond to the sheriff, the court or a judge may upon application in such action give such relief to the plaintiff and defendant in the original action and to the sureties in the bail bond as is just and reasonable, and the order made on any such application has the effect of a defeasance to the bail bond. R.S.O. 1950, c. 149, s. 45.

Surrender
by sureties

46.—(1) The sureties of a debtor may surrender him into the custody of the sheriff at the jail, and the sheriff or jailer shall there receive him into custody, and the sureties may set up the surrender, or the offer to surrender and the refusal of the sheriff or jailer to receive the debtor into custody at the jail, as a defence to any action brought on the bond for a breach of the condition happening after such surrender or tender and refusal, and the defence, if sustained in proof, discharges them.

(2) The debtor may again be allowed to go out of close custody on giving to the sheriff a new bond with sureties as aforesaid. R.S.O. 1950, c. 149, s. 46.

47.—(1) The party at whose suit a debtor has been confined in execution may, at any time while the debtor is at large upon bail, apply to the court or a judge for an order for the examination *viva voce* on oath of the debtor touching the matters mentioned in section 50, and, if the debtor does not submit himself to be examined pursuant to the order or refuses to make full answer in respect to the matters touching which he is examined to the satisfaction of the court or a judge, the court or judge may order the debtor to be committed to close custody, and the sheriff, on due notice of the order, shall forthwith take the debtor and commit him to close custody until he obtains an order of the court or a judge for again allowing him to go out of close custody, on giving the necessary bond as aforesaid, or until he is otherwise discharged in due course of law.

(2) An order for the discharge of the debtor may be made on his showing that he has submitted himself to be examined and made full answer as aforesaid and has thereafter given to the plaintiff or his solicitors five days notice of his intention to apply. R.S.O. 1950, c. 149, s. 47.

48. If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor, is liable only to an action for damages sustained by the person at whose suit the debtor was taken or imprisoned, and is not liable to any other action in consequence of the escape. R.S.O. 1950, c. 149, s. 49.

49. A debtor in close custody in execution or on mesne process and a debtor arrested under a writ of *capias ad satisfaciendum*, though he is not in close custody but has given bail, may, after giving to the person at whose instance he is in close custody or has been so arrested ten days notice in writing of his intention to do so, apply to the court or a judge to be discharged. R.S.O. 1950, c. 149, s. 50.

50. Where the notice is given by a debtor in close custody in execution or by a debtor who has been arrested under a writ of *capias ad satisfaciendum* and has given bail, the person at whose instance he is in close custody or has been so arrested may apply to the court or a judge for an order that the debtor be examined *viva voce* on oath for the purpose of discovering any property or effects that he is possessed of or entitled to, or that are in the possession or under the control of any other person for the use or benefit of the debtor, or

that the debtor having been in possession of may have fraudulently disposed of for the purpose of hindering, delaying, defrauding or defeating his creditors, and touching the debtor's estate and effects and the circumstances under which he contracted the debt or incurred the liability that was the subject of the action in which judgment has been recovered against him, and as to the means and expectations he then had, and as to the property and means he still has, and as to the disposal he may have made of any of his property. R.S.O. 1950, c. 149, s. 51.

Application
of debtor for
discharge

51.—(1) Upon an application under section 49 and upon the debtor making oath that he is not worth \$20 exclusive of his goods and chattels exempt from seizure under execution, and, in the case of a debtor in execution, that he has submitted himself to be examined pursuant to any order that may have been made for his examination, or that no order for his examination has been served, and where such examination has been had, if the matter thereof is deemed satisfactory, and, in the case of a debtor confined in close custody on mesne process, that he does not believe the demand of the plaintiff to be just and for that reason and no other resists payment of it and refuses to suffer judgment to be entered against him for the sum sworn to, and if the cross-examination, if any, of the debtor upon his affidavit is deemed satisfactory, the debtor shall be discharged from custody, but the discharge is not a release or satisfaction of the judgment or of the claim of the plaintiff and does not deprive the plaintiff of any remedy against the debtor or his property.

Cross exam-
ination of
debtor on
affidavit

(2) A debtor in close custody upon mesne process may be cross-examined upon his affidavit according to the practice of the court as to cross-examination upon an affidavit on a motion. R.S.O. 1950, c. 149, s. 52.

Discharge
may be on
condition of
assignment
by debtor

52. In the case of a debtor in execution, it may be made a condition of his discharge that he first, by assignment or conveyance to be approved of by the court or a judge, assigns and conveys to an assignee for the benefit of his creditors any right or interest he may have in and to any property real or personal, credits or effects, other than goods and chattels exempt from seizure under execution, and, in the case of a debtor in close custody on mesne process, it may be made a condition of his discharge that he first suffer the plaintiff to have judgment against him for the sum sworn to or such part thereof as the court or judge deems just. R.S.O. 1950, c. 149, s. 53.

Remand
into custody
in cases of
fraud, etc.

53. In the case of a debtor in execution, if it appears that the debt for which he is in close custody or has been arrested was contracted by fraud, or breach of trust, or under false

pretences, or that he wilfully contracted the debt without having had at the time a reasonable expectation of being able to pay or discharge it and with intent to defraud, the court or judge may order the debtor to be remanded into close custody for any period not exceeding twelve months and to be then discharged. R.S.O. 1950, c. 149, s. 54.

54. Where the discharge has been unduly or fraudulently obtained by a false allegation of circumstances that, if true, would have entitled the debtor to be discharged, he shall, upon the same being made to appear to the satisfaction of the court or a judge, be liable to be again taken in execution or remanded to his former custody by order of the court or judge. R.S.O. 1950, c. 149, s. 55.

Debtor's liability to be retaken in execution

55. The court or judge making an order for the examination of a debtor under this Act may direct the sheriff or jailer having the custody of the debtor to bring him before the court or judge or before some person to be named in the order for the purpose of being examined, and the sheriff or jailer shall take the debtor before the court or judge or the person so named for examination in the same manner as if the sheriff or jailer were acting in obedience to a writ of *habeas corpus ad testificandum*. R.S.O. 1950, c. 149, s. 56.

Production of debtor for examination

56. A written order under the hand of the judgment creditor or of the solicitor by whom a writ of *capias ad satisfaciendum* has been issued shall justify the sheriff, jailer or officer in whose custody the debtor is under the writ, in discharging him, unless, where the order is given by the solicitor, the party for whom such solicitor professes to act has given written notice to the contrary to the sheriff, jailer or officer, but such discharge is not a satisfaction of the debt and nothing herein contained justifies the solicitor in giving an order for discharge without the consent of his client. R.S.O. 1950, c. 149, s. 57.

Discharge by consent of plaintiff

57. Neither the taking of a debtor in execution under a writ of *capias ad satisfaciendum* nor his imprisonment thereunder or under this Act nor his discharge from custody by the voluntary action of his creditor or under the powers conferred by this Act operates as a satisfaction or extinguishment of the debt or deprives the creditor of the right to take out execution or other process against the property of the debtor or to take any other proceeding against him in the same manner as if the debtor had not been taken in execution or discharged out of custody. R.S.O. 1950, c. 149, s. 58.

When plaintiff may issue other writs

58. *The Judicature Act* and the rules of court apply to this Act. R.S.O. 1950, c. 149, s. 59.

Application R.S.O. 1960, c. 197

CHAPTER 156

The Fruit Packing Act**1. In this Act,**Interpre-
tation

- (a) "association" means an association of fruit growers incorporated as an association under *The Corporations Act* or a predecessor thereof for the purpose of marketing fruit and composed of ten or more fruit growers who together hold at least one hundred acres of land and have contracted to market their fruit through such association; R.S.O. 1960, c. 71
- (b) "Minister" means the Minister of Agriculture. R.S.O. 1950, c. 150, s. 1.

2. The Lieutenant Governor in Council may make a grant out of such moneys as are appropriated therefor by the Legislature to any association in accordance with this Act for the purpose of acquiring, erecting or equipping buildings necessary for the proper grading, packing and storing of the fruits grown by the members of the association. Grant for erecting packing houses R.S.O. 1950, c. 150, s. 2.

3. Such grant shall not exceed 25 per cent of the appraised value of the buildings upon which the grant is to be made, or a total of \$1,500 in any one case. Grant not to exceed 25 per cent of appraised value R.S.O. 1950, c. 150, s. 3.

4. The plans and location of the buildings must be approved by the Minister before a grant is paid. Approval of plans and location R.S.O. 1950, c. 150, s. 4.

5. Buildings on which a grant is paid under this Act must be vested in the association, and no such building shall be disposed of by the association without the consent of the Minister. Ownership of buildings R.S.O. 1950, c. 150, s. 5.

6. The control and management of the buildings erected under this Act must be vested in the association and the association may fix charges and adopt regulations for the proper conduct of the work and shall accept fruit for grading, packing or storing from growers who are not members of the association on such terms as seem reasonable. Use of buildings by outside growers R.S.O. 1950, c. 150, s. 6.

Annual
statement

7. Every association to which a grant has been made under this Act shall at least once in every year, and whenever called upon to do so by the Minister, transmit to the Minister a general statement of the funds and effects of the association, the number of members or shareholders therein, and such other information as may be requisite to show clearly the position of the association and the business done during the year, which return shall be certified by the president and secretary as being correct. R.S.O. 1950, c. 150, s. 7.

Repayment,
effect

8. Upon repayment of the amount of the grant by an association, such association is relieved of all the conditions and limitations otherwise imposed by this Act. R.S.O. 1950, c. 150, s. 8.

Powers of
Minister

9. The Minister may decide all matters of doubt or dispute as to the working of any association or the construction of this Act, and his decision is final, except that an appeal therefrom may be made to the Lieutenant Governor in Council. R.S.O. 1950, c. 150, s. 9.

CHAPTER 157

The Frustrated Contracts Act**1. In this Act,**Interpre-
tation

- (a) "contract" includes a contract to which the Crown is a party;
- (b) "court" means the court or arbitrator by or before whom a matter falls to be determined;
- (c) "discharged" means relieved from further performance of the contract. R.S.O. 1950, c. 151, s. 1.

2.—(1) This Act applies to any contract that is governed by the law of Ontario whether it was made before or after the 1st day of June, 1949, that after the 1st day of June, 1949, has become impossible of performance or been otherwise frustrated and the parties to which for that reason have been discharged.

Application
of Act**(2) This Act does not apply,**

Exceptions

- (a) to a charterparty or a contract for the carriage of goods by sea, except a time charterparty or a charterparty by way of demise;
- (b) to a contract of insurance; or
- (c) to a contract for the sale of specific goods where the goods, without the knowledge of the seller, have perished at the time the contract was made, or where the goods, without any fault on the part of the seller or buyer, perished before the risk passed to the buyer. R.S.O. 1950, c. 151, s. 2.

3.—(1) The sums paid or payable to a party in pursuance of a contract before the parties were discharged,

Adjustment
of rights and
liabilities

- (a) in the case of sums paid, are recoverable from him as money received by him for the use of the party by whom the sums were paid; and
- (b) in the case of sums payable, cease to be payable.

Expenses

(2) If, before the parties were discharged, the party to whom the sums were paid or payable incurred expenses in connection with the performance of the contract, the court, if it considers it just to do so having regard to all the circumstances, may allow him to retain or to recover, as the case may be, the whole or any part of the sums paid or payable not exceeding the amount of the expenses, and, without restricting the generality of the foregoing, the court, in estimating the amount of the expenses, may include such sum as appears to be reasonable in respect of overhead expenses and in respect of any work or services performed personally by the party incurring the expenses.

Benefits

(3) If, before the parties were discharged, any of them has, by reason of anything done by any other party in connection with the performance of the contract, obtained a valuable benefit other than a payment of money, the court, if it considers it just to do so having regard to all the circumstances, may allow the other party to recover from the party benefited the whole or any part of the value of the benefit.

Assumed obligations

(4) Where a party has assumed an obligation under the contract in consideration of the conferring of a benefit by any other party to the contract upon any other person, whether a party to the contract or not, the court, if it considers it just to do so having regard to all the circumstances, may, for the purposes of subsection 3, treat any benefit so conferred as a benefit obtained by the party who has assumed the obligation.

Insurance

(5) In considering whether any sum ought to be recovered or retained under this section by a party to the contract, the court shall not take into account any sum that, by reason of the circumstances giving rise to the frustration of the contract, has become payable to that party under any contract of insurance unless there was an obligation to insure imposed by an express term of the frustrated contract or by or under any enactment.

Special contractual provisions

(6) Where the contract contains a provision that upon the true construction of the contract is intended to have effect in the event of circumstances that operate, or but for the provision would operate, to frustrate the contract, or is intended to have effect whether such circumstances arise or not, the court shall give effect to the provision and shall give effect to this section only to such extent, if any, as appears to the court to be consistent with the provision.

(7) Where it appears to the court that a part of the contract can be severed properly from the remainder of the contract, being a part wholly performed before the parties were discharged, or so performed except for the payment in respect of that part of the contract of sums that are or can be ascertained under the contract, the court shall treat that part of the contract as if it were a separate contract that had not been frustrated and shall treat this section as applicable only to the remainder of the contract. R.S.O. 1950, c. 151, s. 3.

CHAPTER 158

The Game and Fisheries Act

1. In this Act,

Interpre-
tation

1. "angling" means angling as defined in the Ontario Fishery Regulations;
2. "closed season" means a specified period in which specified game or fish shall not be taken; R.S.O. 1950, c. 153, s. 1, cls. (a, b).
3. "deer" includes wapiti; 1951, c. 29, s. 1.
4. "Department" means the Department of Lands and Forests;
5. "Deputy Minister" means the Deputy Minister of Lands and Forests;
6. "dog" means a dog, male or female;
7. "domestic animals and domestic birds" includes any non-native species kept in captivity but does not include native species kept in captivity or non-native species present in the wild state;
8. "farmer" means a person actually living upon and tilling his own land, or land to the possession of which he is for the time being entitled, or a *bona fide* settler engaged in clearing land for the purpose of bringing it to a state of cultivation;
9. "ferret" means any of the domesticated forms of the old world polecat (*putorius putorius*) used for hunting;
10. "fishery" means a stretch of water, locality, premises, place or station described in the regulations, or in a licence, in or from which fish may be taken, and all nets, plants and appliances used in connection with any of them;
11. "fur-bearing animal" means a beaver, fisher, fox, lynx, marten, mink, muskrat, otter, rabbit, raccoon, skunk, red squirrel, weasel or wolverine or any other animal that the Lieutenant Governor in Council declares to be a fur-bearing animal;

R.S.C. 1952,
c. 179

12. "game" means a fur-bearing animal or an animal or bird protected by this Act or the *Migratory Birds Convention Act* (Canada), and includes any part of such animal or bird;
13. "guide" means a person who for hire or reward, or hope thereof, renders service as a guide to a person engaged in angling or hunting;
14. "holder of a licence" means the person named in the licence; R.S.O. 1950, c. 153, s. 1, cls. (c-m).
15. "hunting" includes chasing, pursuing, following after, or on the trail of, or searching for, shooting, shooting at, stalking or lying in wait for, worrying, molesting, taking or destroying any animal or bird, whether or not the animal or bird be then or subsequently captured, injured or killed, and "hunt" and "hunter" have corresponding meanings; 1956, c. 26, s. 1 (1).
16. "licence" means an instrument issued under this Act conferring upon the holder the privilege to do the things set forth in it, subject to the conditions, limitations and restrictions contained in it and in this Act, but no licence shall be or operate as a lease;
17. "Minister" means the Minister of Lands and Forests;
18. "non-resident" means a person who has not actually resided in Ontario for a period of twelve consecutive months immediately preceding the time that his residence becomes material under this Act; R.S.O. 1950, c. 153, s. 1, cls. (o-q).
19. "officer" means a member of the Ontario Provincial Police Force, a conservation officer, a deputy game and fishery warden, or any other person authorized to enforce this Act; R.S.O. 1950, c. 153, s. 1, cl. (r); 1952, c. 33, s. 1; 1953, c. 40, s. 1.
20. "Ontario Fishery Regulations" means the Ontario Fishery Regulations made under the *Fisheries Act* (Canada); R.S.O. 1950, c. 153, s. 1, cl. (z), *amended*.
21. "open season" means a specified period during which game or fish may be taken; R.S.O. 1950, s. 153, s. 1, cl. (s).
22. "owner", with reference to land, includes any person who is the owner of an interest in land entitling him to the possession of it, but does not include the holder of a timber licence; 1956, c. 26, s. 1 (2).
23. "pelt" means the untanned skin of a fur-bearing animal;

R.S.C. 1952,
c. 119

24. "person" includes an Indian; R.S.O. 1950, c. 153, s. 1, cls. (t, u).
25. "pheasant hunting preserve" means an area in which pheasants propagated under a licence are released for hunting purposes; 1959, c. 40, s. 1.
26. "regulations" means the regulations made under this Act;
27. "resident" means a person who has actually resided in Ontario for a period of twelve consecutive months immediately preceding the time that his residence becomes material under this Act;
28. "skin" means the untanned skin of an animal stripped from its body;
29. "snare" means a device for the taking of animals whereby they are caught in a noose, and "snaring" has a corresponding meaning;
30. "trap" means a spring trap, gin, deadfall, snare, box or net used to capture game, and "trapping" has a corresponding meaning;
31. "unprime", where applied to pelts, means that the pelts show natural markings of a dark or bluish colour on the flesh side. R.S.O. 1950, c. 153, s. 1, cls. (v-zb).

APPLICATION

2. This Act does not apply to domestic animals and domestic birds. R.S.O. 1950, c. 153, s. 2. Application
of Act

ADMINISTRATION

3. Notwithstanding any other Act, the administration of this Act and all matters respecting game and fish are under the control and direction of the Minister. R.S.O. 1950, c. 153, s. 3. Administra-
tion of Act

4.—(1) The Minister may appoint deputy game and fishery wardens in and for any part of Ontario to serve without remuneration. R.S.O. 1950, c. 153, s. 4, *part*. Deputy
wardens

(2) Every such appointment terminates on the 31st day of December of the year in which it was made. R.S.O. 1950, c. 153, s. 4, *part*. Termination
of
appoint-
ments

Expenses

5. The expenses incurred in the administration and enforcement of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 153, s. 5.

Search of
vehicles,
premises

6.—(1) An officer has the authority of a constable for the purpose of this Act, and may without a search warrant,

- (a) stop and search any vehicle, motor vehicle, aircraft, boat or launch or any railway car, including a caboose, baggage car or express car; and
- (b) enter and search any hunting, mining, lumber or construction camp or any baggage office or express office, or any licensed premises where pelts are bought or sold,

if he has reasonable grounds to believe that any of them contains any game or fish taken in contravention of this Act. R.S.O. 1950, c. 153, s. 6 (1).

Search of
receptacles

(2) An officer may open and inspect any trunk, box, bag, parcel or receptacle if he has reasonable grounds to believe that it contains game or fish killed, taken, shipped or had in possession in contravention of this Act and for that purpose may enter all property which by this Act he is authorized to enter and may use necessary force where the owner or person in apparent charge obstructs or refuses to facilitate his inspection, and if he has reasonable grounds to believe that it is necessary to enter any store, private house, warehouse or building which by this Act he is not authorized to enter without a search warrant, he shall make a deposition before a justice of the peace and demand a warrant to search that store, private house, warehouse or building, and thereupon the justice may issue a search warrant. R.S.O. 1950, c. 153, s. 6 (2), *amended*.

Arrest on
view

(3) An officer on view may arrest without process any person found committing a contravention of this Act or of the regulations, in which case he shall bring him with reasonable diligence before a competent court to be dealt with according to law.

Entry upon
private
property

(4) An officer in the discharge of his duties and any person by him accompanied or authorized for the purpose may enter upon and pass through or over private property without being liable for trespass. R.S.O. 1950, c. 153, s. 6 (3, 4).

Inspection
of camps

(5) An officer may inspect any camp occupied by or catering to anglers or hunters and may prescribe methods for sanitation, disposal of refuse and extinguishing fires. R.S.O. 1950, c. 153, s. 6 (5); 1951, c. 29, s. 2.

(6) An officer shall investigate all contraventions of this Act and of the regulations brought to his notice and prosecute every person whom he has reasonable cause to believe is guilty of an offence against this Act. R.S.O. 1950, c. 153, s. 6 (6), *amended*. Duty to prosecute

(7) Subsection 6 does not apply to contraventions of section 66. 1952, c. 33, s. 2. Where sub. 6 not to apply

(8) No person shall obstruct, hinder or delay or interfere with an officer in the discharge of his duty by violence or threats or by giving false information, or in any other manner. Obstructing officers

(9) No officer or other person authorized to enforce this Act shall maliciously abuse his authority or neglect or refuse to perform any duty pertaining to his office. Neglect of duties

(10) An officer may carry such arms and accoutrements as are necessary for self-defence if he possesses the authorities which may be legally necessary for that purpose. Arms for self-defence

(11) Any search warrant or authorization to search issued or authorized under this Act may be executed at any time, including Sunday or other holiday, and by day or night. R.S.O. 1950, c. 153, s. 6 (7-10). Search warrant

LICENCES

7.—(1) Except under the authority of a licence, no resident shall hunt or trap or attempt to hunt or trap fur-bearing animals or to hunt or attempt to hunt animals or birds. Residents

(2) Subject to this Act, the holder of a licence to hunt and trap fur-bearing animals may sell any fur-bearing animal taken by him under the authority of the licence or the pelt of any such animal. Authority to sell

(3) The holder of a licence to hunt and trap fur-bearing animals may, under the authority of that licence and without any other licence, hunt in the area described in the licence during the open seasons between the 1st day of November and the 30th day of June in the next following year any bird or animal, other than caribou, deer or moose. 1956, c. 26, s. 2, *part*. Exceptions as to trappers

(4) A farmer or any of his sons residing upon his lands may without a licence hunt or trap thereon fur-bearing animals during the open seasons and may hunt thereon birds or animals other than caribou, deer or moose, during the open seasons, and, subject to this Act, any farmer or any of such sons may without a licence sell the fur-bearing animals so hunted or trapped or the pelts thereof, but he shall keep such records and make such returns relating thereto as the Lieutenant Governor in Council prescribes. 1956, c. 26, s. 2, *part*; 1958, c. 31, s. 1. Exceptions as to farmers

Non-residents

8. Except under the authority of a licence, no non-resident shall hunt or attempt to hunt animals or birds or carry or use any fire-arm or air-gun in any place frequented by game. 1956, c. 26, s. 2, *part*; 1959, c. 40, s. 2.

Minors

9. Except as prescribed by the regulations, no licence shall be issued to any person under the age of sixteen years. 1956, c. 26, s. 2, *part*.

Licence to trap

10.—(1) The Minister or any officer authorized by him may, in a licence to trap fur-bearing animals,

- (a) fix the number of each species of fur-bearing animal that may be taken thereunder; and
- (b) define or designate the area in which fur-bearing animals may be taken thereunder by the holder of the licence.

Idem

(2) The Minister or any officer authorized by him may limit the number of licences to trap fur-bearing animals in any area.

Idem

(3) The Minister or any officer authorized by him, in exercising the powers conferred by this section, may do so in such manner as he deems proper having regard to the conservation and perpetuation of the wild-life resources in the area concerned.

Idem

(4) A licence to trap fur-bearing animals is authority to the holder of the licence to trap in accordance with its terms. 1952, c. 33, s. 4.

Hunting in provincial parks

11.—(1) Except as provided in the regulations, no person shall hunt, trap or possess, or attempt to hunt or trap, any bird, fur-bearing animal or game in a provincial park or in a Crown game preserve. R.S.O. 1950, c. 153, s. 9 (1); 1953, c. 40, s. 2 (1).

Weapons, etc., in provincial parks

(2) Except as provided in the regulations, no person shall possess or use in a provincial park or on Crown lands in a Crown game preserve any trap, fire-arm, explosive or weapon. R.S.O. 1950, c. 153, s. 9 (2); 1953, c. 40, s. 2 (2).

Licences:

12.—(1) Except under the authority of a licence, no person shall,

cold storage

- (a) engage in the business of cold storage of game;

game dealer's

- (b) buy, sell or expose for sale, game, other than fur-bearing animals that may otherwise be sold lawfully;

- (c) engage in, carry on, or be concerned in tanning, dressing, plucking, dyeing or treating, or undertake to tan, dress, pluck, dye or treat a fur-bearing animal or bear or a pelt or skin of any of them; ^{fur dresser's}
- (d) possess, or engage in, or carry on, or be concerned in trading, buying or selling, or soliciting trade in fur-bearing animals or their pelts. ^{fur dealer's}

(2) No holder of a licence under clause *d* of subsection 1 shall sell, trade or barter, or be concerned in the selling, trading or bartering of any pelts to or with any other person in Ontario except where that other person holds a licence under clause *d* of subsection 1. ^{Trades only between licensed fur dealers} R.S.O. 1950, c. 153, s. 12.

13. Except under the authority of a licence, no hotel, boarding-house, restaurant, camp, or club shall possess game, other than pheasants that have been propagated or sold under a licence so to do. ^{Hotels, restaurants or clubs} 1958, c. 31, s. 2.

14. Except under the authority of a licence, no person or his servant, clerk or agent shall buy, sell, expose or keep for sale, directly or indirectly on any pretence or device, for any valuable consideration, barter, give to or obtain from any other person a caribou, deer or moose wherever killed or procured. ^{Dealing in moose, deer, caribou} R.S.O. 1950, c. 153, s. 14; 1953, c. 40, s. 4.

15. Notwithstanding anything in this Act, any person may under the authority of a licence sell the meat of a muskrat, beaver, raccoon or bear if taken lawfully, and any person may without a licence possess or buy any such meat for his own use. ^{Dealing in muskrat, etc.} R.S.O. 1950, c. 153, s. 15.

16. Except under the authority of a licence, no person shall use or be accompanied by a dog while hunting deer or moose. ^{Dog licence for hunting deer or moose} R.S.O. 1950, c. 153, s. 16.

17.—(1) Except under the authority of a licence, no person shall propagate game or possess game for that purpose. ^{Licence for propagation of game}

(2) The licence shall be for the period of time and on the terms and conditions prescribed by the Lieutenant Governor in Council. ^{Idem} R.S.O. 1950, c. 153, s. 17 (1, 2).

18. Except under the authority of a licence issued by the Deputy Minister, no person shall during the closed season take game for educational or scientific purposes. ^{Taking game for scientific purposes}

Special
licences

R.S.C. 1952,
c. 179

19. Notwithstanding anything in this Act, any person licensed under this Act or the *Migratory Birds Convention Act* (Canada) to kill or capture protected animals or birds may use traps or fire-arms for that purpose at any time or place where the licence is valid. R.S.O. 1950, c. 153, s. 17 (4, 5).

Live game
kept in
captivity

20.—(1) Every person in possession or control of live game shall within ten days after coming into such possession or control apply in writing to the Minister for a permit to keep the live game in captivity.

Issuance
of permits

(2) The Minister may issue permits under this section in such form and subject to such terms and conditions as he in his discretion deems proper.

Refusal and
cancellation
of permits

(3) The Minister may refuse to issue a permit under this section and may cancel any such permit at any time when it is shown to his satisfaction that the person to whom the permit was issued has failed to comply with the terms and conditions thereof. 1951, c. 29, s. 5, *part*.

Offence
against
live game

(4) Every person who fails to comply with subsection 1 or who keeps live game in captivity after a permit therefor has been refused or cancelled is guilty of an offence against this Act. 1960, c. 40, s. 1.

Seizure of
animals,
cages, etc.

(5) Live game kept in captivity contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith may be seized, and upon conviction of the person in possession or control thereof, shall be forwarded to and becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister directs.

Application
of section

(6) This section does not apply where live game is kept in captivity in a public zoo or for scientific or educational purposes in a public institution. 1951, c. 29, s. 5, *part*.

Fish nets

21.—(1) Except under the authority of a licence, no person shall buy, sell or possess gill, hoop, pound, seine or trap nets.

Restricted
sale

(2) No person shall sell a gill, hoop, pound, seine or trap net to any other person not the holder of a commercial fishing licence or a licence under subsection 1. R.S.O. 1950, c. 153, s. 18.

Fish for
exceptional
purposes

22. Except under the authority of a licence, no person shall take any fish or spawn from Ontario waters for the purpose of stocking, artificial breeding or for scientific or educational purposes. R.S.O. 1950, c. 153, s. 19.

23. Except under the authority of a licence, no person ^{Turtles} shall use a trap to take turtles. R.S.O. 1950, c. 153, s. 20.

24.—(1) Except under the authority of a licence, no person ^{Guides} shall act as a guide.

(2) No person shall employ a person as a guide unless the ^{Employment of guides} person so employed is the holder of a guide's licence. R.S.O. 1950, c. 153, s. 22 (1, 2).

(3) No non-resident shall hunt deer or moose in the District ^{Guides for non-resident hunters} of Rainy River without employing and being accompanied by a licensed guide, but, where two or more non-residents hunt together, the number of guides employed need not be more than one guide for each two non-residents. 1958, c. 31, s. 4.

(4) The holder of a guide's licence shall not act as a guide ^{Limitation on guides} for any person for any purpose for which that person is required to have a licence under this Act, the *Migratory Birds Convention Act* (Canada) or the Ontario Fishery Regulations, ^{R.S.C. 1952, c. 179} unless that person is the holder of a licence for the purpose. 1952, c. 33, s. 5 (2).

25.—(1) No licence shall be transferred and no person ^{Transfer of licence, coupon or seal} shall buy, sell, exchange or in any way become a party to the transfer of a licence, shipping coupon or seal, or in any way use or attempt to use a licence, shipping coupon or seal issued to any other person, except upon such terms and conditions as the Lieutenant Governor in Council prescribes.

• (2) Any licence may be cancelled by the Deputy Minister, ^{Cancellation of licence} subject to appeal to the Minister, for a contravention by the holder, or by any other person with his connivance, of this Act or the regulations or of the licence, whether or not a prosecution has been instituted in respect to the contravention.

(3) The issue of a licence is in the discretion of the Deputy ^{Issue of licence discretionary} Minister, subject to appeal to the Minister.

(4) The holder of a licence shall produce and show it to any ^{Production of licence on demand} officer as often as reasonably requested by him.

(5) No person who is not a resident British subject shall be ^{Trapping licences} the holder of a licence to trap fur-bearing animals.

(6) No holder of a licence shall hunt game unless at that ^{Licence to be carried} time he has the licence on his person and he shall wear in a conspicuous place on his person any badge that is furnished him by the Department at the time of issue of the licence, and the licence with which a badge is furnished at the time of issue is not valid unless the holder is wearing the badge in the way required by this subsection.

Multiplicity
of licences

(7) No person shall be the holder of more than one licence to hunt deer or moose in any year.

Licences
obtained by
misrepresentation

(8) The holder of a licence obtained by false representations or by false and misleading statements made to the issuer in respect to the age, nationality, place of residence or other information necessary to be furnished at the time of the issuing of the licence shall be deemed to be the holder of a void licence and the holder may be prosecuted under this Act in the same manner and with the same effect as he could be prosecuted if he were not the holder of a licence. R.S.O. 1950, c. 153, s. 23.

Offence to
make false
statement

(9) Any person who knowingly makes any false statement in any application, affidavit or declaration required by this Act or the regulations is, in addition to any other penalty for which he may be liable, guilty of an offence against this Act. 1960, c. 40, s. 2.

Issuers of
licences

26.—(1) No person shall issue any licence or collect any fee in respect thereof unless authorized by this Act.

Licences
not to be
issued in
blank

(2) No issuer of licences shall issue and no person, while hunting or in a hunting camp or on his way to or from a hunting camp, shall possess a hunting licence that does not exhibit in the proper place the name of the possessor.

Licences
not to be
antedated

(3) No issuer of licences shall issue and no person shall accept or receive an antedated licence. R.S.O. 1950, c. 153, s. 24.

Township
licences
to hunt
pheasants,
etc.

27.—(1) The Minister may in writing authorize any township to pass by-laws for issuing and fixing the maximum number of licences to hunt, during the open season, pheasants, rabbits and foxes and for charging such fees as he authorizes, and the Minister may fix the minimum number of such licences that the by-law shall provide for. 1957, c. 39, s. 1.

Where town-
ship licence
required

(2) Where a township has passed a by-law under subsection 1, no person shall hunt pheasants, rabbits or foxes in the township during the open season without a licence from the township. 1957, c. 39, s. 2.

ROYALTIES

Royalties
payable

28.—(1) No person shall take or ship or attempt to take or ship to a point outside Ontario any fur-bearing animal or its pelt or send or have sent any of them to a tanner or taxidermist to be tanned or plucked or treated in any way without a licence and without paying the royalty prescribed by the regulations. R.S.O. 1950, c. 153, s. 28 (1).

(2) The royalties apply to pelts that are damaged or destroyed by any means, but they do not apply, where the holder furnishes the Department with satisfactory proof of their origin, ^{Exceptions}

(a) to fox and mink bred on fur-farms operating in Ontario under a licence; or

(b) to pelts imported from a place outside Ontario. R.S.O. 1950, c. 153, s. 28 (2); 1952, c. 33, s. 8.

(3) Notwithstanding anything in this section, any person ^{Bear exempt} holding the proper hunting licence may without any other licence and without paying royalty take or export to a point outside Ontario any bear taken or killed by him, or its skin, or may have the skin tanned, plucked or treated in any way in Ontario. R.S.O. 1950, c. 153, s. 28 (4).

ANIMALS

29. Except during such times and under such terms and conditions and in such parts of Ontario as the Lieutenant Governor in Council prescribes, no person shall hunt or attempt to hunt caribou, deer or moose. ^{Open seasons} R.S.O. 1950, c. 153, s. 29; 1951, c. 29, s. 7.

30.—(1) The skins and pelts of beaver, fisher, lynx, marten, mink and otter shall be sealed and marked by an officer ^{Sealing and marking of skins and pelts} before sale, and no fur dealer or buyer shall have unsealed or unmarked beaver, fisher, lynx, marten, mink or otter skins or pelts in his possession.

(2) Subsection 1 does not apply to the skins and pelts of ^{Exception} mink bred on a fur-farm.

(3) No person shall present or permit to be presented to an officer for sealing or marking the skin or pelt of a beaver, fisher, lynx, marten, mink or otter that is not taken by him under the authority of his licence to trap or hunt fur-bearing animals, and no person shall be party to having or attempting to have a skin or pelt of a beaver, fisher, lynx, marten, mink or otter sealed or marked by an officer that is not taken under the authority of the licence that is presented to the officer with the skin or pelt. ^{Offence} 1953, c. 40, s. 6 (1).

(4) Except in such localities and during such periods and subject to such terms and conditions as the Minister prescribes, no person shall trap, hunt or possess the pelt or any part of a beaver, fisher, fox, lynx, marten, mink, muskrat, otter, rabbit, raccoon or a black, gray or fox squirrel. ^{Hunting, trapping, etc.} R.S.O. 1950, c. 153, s. 30 (3); 1953, c. 40, s. 6 (2).

Shooting
muskrat
or beaver,
swimming
deer

(5) No person shall,

- (a) shoot or spear a muskrat or beaver at any time; or
- (b) hunt a deer or moose while it is swimming. R.S.O. 1950, c. 153, s. 30 (4); 1951, c. 29, s. 8; 1952, c. 33, s. 9; 1953, c. 40, s. 6 (3).

Muskrat
and beaver

(6) Notwithstanding clause *a* of subsection 5, a person may shoot muskrat or beaver on such terms and conditions as the Minister determines. 1958, c. 31, s. 7.

Moose and
deer that
may be
taken

31.—(1) Subject to subsections 2 and 3, no person shall, during the open season, take or kill more than one moose under a licence to hunt moose and one deer under a licence to hunt deer. 1957, c. 39, s. 3 (1).

Exception,
party

(2) Where two or more persons who hold licences to hunt deer are hunting as a party, any member of the party may take or kill the number of deer that is equal to the number of such licences held by the members of the party, but in no case shall the total number of deer taken or killed by the members of the party exceed the total number of such licences held by the members of the party. 1957, c. 39, s. 3 (2).

Exception,
camp

(3) Where four or more residents who hold licences to hunt deer are hunting as members of a camp that has one or more camp licences to hunt deer, any member of the camp may take or kill the number of deer that is equal to the number of individual licences held by the members of the camp plus one deer for each camp licence held by the camp, but in no case shall the total number of deer taken or killed by the members of the camp exceed the total number of individual licences held by the members of the camp and of the camp licences held by the camp. 1957, c. 39, s. 3 (3).

Cotton-tail
rabbits

32.—(1) No person shall take, kill or destroy more than six cotton-tail rabbits in any one day. R.S.O. 1950, c. 153, s. 31 (6).

Idem

(2) No person shall offer for sale or barter, or sell or barter, or purchase cotton-tail rabbits. R.S.O. 1950, c. 153, s. 44.

Protection
of muskrat
and beaver
houses

33.—(1) No person shall cut, spear, break or destroy a muskrat house, beaver house or beaver dam, or set or place a trap closer than five feet to a beaver house or a muskrat house, burrow, feed-house or push-up. R.S.O. 1950, c. 153, s. 32 (1).

Traps in
muskrat
houses, etc.

(2) Notwithstanding subsection 1, the Minister may issue a permit in writing to any person under which such person may place traps in muskrat houses, burrows, feed-houses or push-ups during the open season for muskrat.

(3) Notwithstanding subsection 1, the holder of a trap-line licence, while trapping in his trap-line area, may open a muskrat house, den or push-up for the purpose of setting traps therein during the open season for trapping muskrats, and he shall properly close the opened house, den or push-up. R.S.O. 1950, c. 133, s. 32 (9, 10). Opening muskrat houses, etc., to set traps

(4) Notwithstanding subsection 1, the Minister may issue a permit in writing to any person under which such person may place traps in or within five feet of a beaver house during the open season for beaver. Traps in beaver houses

(5) Notwithstanding subsection 1, the holder of a trap-line licence, while trapping in his trap-line area, may set traps in or within five feet of a beaver house during the open season for beaver. 1958, c. 31, s. 8. Idem

(6) No person shall set out a trap for the taking of fur-bearing animals until he has permanently marked the trap with the identification mark that has been allotted to him for the purpose by an officer. 1952, c. 33, s. 10 (2). Traps to be marked

(7) No person shall molest, injure or destroy a den or usual place of habitation of a fur-bearing animal other than a skunk or fox. Dens of fur-bearing animals

(8) No person shall trap or take a deer or moose by means of traps, nets, snares, baited lines or other similar contrivances or set any of them for any such animal, and, if set, any person may destroy them without incurring any liability. Game not to be taken by traps or snares

(9) No person, during the closed season for deer or moose, shall have in his possession between one-half hour after sunset and one-half hour before sunrise any device capable of throwing or casting rays of light upon an object, or any fire-arm capable of killing deer or moose, unless the fire-arm is unloaded and encased, or is dismantled. R.S.O. 1950, c. 153, s. 32 (2-4). Device for casting rays

(10) No person shall use ferrets in hunting game. R.S.O. 1950, c. 153, s. 32 (8). Ferrets

34.—(1) While hunting caribou, deer or moose, no person alone shall use or be accompanied by a dog. Use of dogs in hunting caribou, deer or moose

(2) Subject to subsection 3, while hunting caribou, deer or moose, no party of two or three, four or five, six or seven, or eight or more, shall use or be accompanied by more than one, two, three or four dogs respectively, and no such dog shall be of the breed commonly known as police dog or any cross-breed thereof. Idem

(3) No party shall use or be accompanied by a dog while hunting caribou, deer or moose in a densely-settled part of Ontario that is designated as such by the Lieutenant Governor in Council. Idem

Dogs at
large

(4) No person owning, harbouring or claiming to own a dog shall allow it to run at large during the closed season for deer in a locality that caribou, deer or moose usually inhabit or in which they are usually found.

Power to
kill dogs
at large
on sight

(5) A dog found running caribou, deer or moose during the closed season for deer in that locality shall be deemed to be at large with leave of the owner and may be killed on sight by an officer without incurring any liability or penalty therefor.

Notice to
be given
of dogs
lost in
hunting

(6) A person who loses a dog while used in the hunting of caribou, deer or moose and is unable to find it at the end of the hunt shall immediately report the loss to the Department in writing giving a description of the dog and the locality in which it was lost. 1956, c. 26, s. 5.

Dogs not
to be used
for hunting
small game

35.—(1) No owner of a dog shall use it or allow it to be used in any manner for the hunting of mink, beaver, otter or muskrat.

Grey-
hounds

(2) No owner of a dog commonly known as a greyhound, or any cross-breed thereof, shall allow it to pursue game or run at large on a Sunday in an area that game usually inhabits or or in which game is usually found.

Interpre-
tation

(3) In this section, "owner" includes a person having a dog in his possession or charge or under his control. R.S.O. 1950, c. 153, s. 34.

Power to
take
animals
for
preservation
of property
R.S.C. 1952,
c. 179

36. Nothing in this Act applies to a person taking or destroying any animal, other than a caribou, deer or moose, or any bird, other than an eagle, osprey, vulture or a bird protected by this Act or the *Migratory Birds Convention Act* (Canada), on his own lands in defence or preservation of his property by any means at any time, but he shall within ten days report the pelts of fur-bearing animals in respect of which there is a closed season to the Department and he shall not offer them for sale or barter during the closed season except under a licence and any fur dealer possessing the pelts shall hold the licence and forward it to the Department when applying for a licence to ship them out of Ontario or to dress or tan them. R.S.O. 1950, c. 153, s. 35; 1953, c. 40, s. 9; 1957, c. 39, s. 4.

Possession
of unprime
skins
prohibited

37. No person shall without lawful excuse have in his possession or in the possession of his servant or agent or any other person on his behalf at any time any pelts while they are in an unprime condition, except the pelts of muskrat taken in accordance with section 36. R.S.O. 1950, c. 153, s. 36.

38.—(1) Except during such periods and on such terms and conditions as the Lieutenant Governor in Council prescribes, no person shall hunt ruffed grouse, spruce partridge, Hungarian partridge, pheasant, sharp-tailed grouse, prairiehen, ptarmigan, quail or wild turkey. R.S.O. 1950, c. 153, s. 37. Grouse, partridge, etc.

(2) Except under the authority of a licence issued on such terms and conditions as the Lieutenant Governor in Council prescribes, no person shall propagate or sell any bird mentioned in subsection 1. 1955, c. 25, s. 3, *part*. Idem

39. Except under the authority of a licence, no person shall own or operate a pheasant hunting preserve. 1959, c. 40, s. 4. Pheasant hunting preserves

40. No person shall hunt or possess, or attempt to hunt, any bird protected by this Act or the *Migratory Birds Convention Act* (Canada) during a closed season, or any other bird, including eagles, hawks, ospreys, owls and vultures, but excluding crows, cow-birds, blackbirds, starlings and house-sparrows, at any time. 1957, c. 39, s. 5. Hunting birds
R.S.O. 1952, c. 179

41. No person shall use, set or maintain any net, trap, snare, spring, cage or other appliance for the purpose of capturing or killing any bird contrary to section 42, and any person may destroy those appliances, where so used, set or maintained, without incurring any liability or penalty therefor. R.S.O. 1950, c. 153, s. 39 (1). Traps and snares prohibited

42. Except in a field trial approved by the Minister, no owner or a dog shall allow it to molest or follow upon the track of any wild game-bird or disturb its nest during the months of April, May, June and July in any year. R.S.O. 1950, c. 153, s. 39 (2). Restricted use of dogs

43. No person shall take, destroy or possess the eggs or nests of any bird protected by this Act, except under the authority of a licence to take, destroy or possess the eggs or nests for educational or scientific purposes issued by the Deputy Minister. 1960, c. 40, s. 6. Eggs and nests protected

44. No person shall during the closed season have in his possession or in that of his servant or agent, or in that of any other person on his behalf, any game wherever killed or procured, except that, Possession of game in closed seasons

- (a) a deer, moose or bird protected by this Act, lawfully killed or procured, may be kept during the period between the end of the open season in any year and the 31st day of August in the next following year, unless otherwise provided by the regulations;

- (b) a pelt of an animal taken in Ontario may be possessed during the closed season under a licence if applied for within ten days after the end of the open season in which it was taken, but this clause does not apply to the pelts of beaver, fisher, lynx, marten, mink and otter that have been sealed or marked in accordance with subsection 1 of section 30 or to the pelts of mink bred on fur-farms;
- (c) a pelt of an animal taken outside Ontario may be possessed during the closed season under a licence if applied for within forty-eight hours after the pelt is received; and
- (d) a person who has lawfully taken and lawfully possesses a deer or moose may donate to any other person for his own use or for the use of his immediate family any part of the deer or moose if there is attached to the donated part a statement signed by the donor exhibiting his full name and address and the number of the licence under which the animal was taken. R.S.O. 1950, c. 153, s. 42; 1952, c. 33, s. 11; 1953, c. 40, s. 10.

Purchase or
sale of
caribou,
deer, moose
prohibited

45. No person shall sell or purchase caribou, deer or moose or expose any of them on any commercial premises, and no hotel, restaurant, boarding-house, camp or club shall mention on a bill of fare or serve any of them. 1955, c. 25, s. 3, *part*.

Poison
prohibited

46. No person shall take or kill, or attempt to take or kill, any game by using poison, and possession of poison by a trapper is *prima facie* evidence that it was used by him in contravention of this section; but the Minister may issue to a limited number of trappers licences to use poison for the taking of wolves. R.S.O. 1950, c. 153, s. 45, *amended*.

Prohibitions
as to guns

47. In a locality that game usually inhabits or in which game is usually found, no person shall,

- (a) except as is provided by the regulations, have an air-gun or fire-arm in his possession in a place from which game may be shot, unless it is unloaded and encased or it is dismantled, between one-half hour after sunset and one-half hour before sunrise of any day;
- (b) except as is provided by the regulations, have an air-gun or fire-arm in his possession, unless it is unloaded and encased or it is dismantled, between one-half hour after sunset on a Saturday and one-half hour before sunrise on the Monday next following;

- (c) discharge an air-gun or fire-arm between one-half hour after sunset on a Saturday and one-half hour before sunrise on the Monday next following; or
- (d) discharge an air-gun or fire-arm between one-half hour after sunset and one-half hour before sunrise from midnight Sunday until midnight Saturday in any week except under a licence for the purpose of hunting raccoon during the open season therefor when accompanied by a dog licensed therefor. R.S.O. 1950, c. 153, s. 46; 1951, c. 29, s. 12.

48. No person shall for hire, gain or reward, or hope thereof, hunt game, or employ, hire or for valuable consideration induce any other person to hunt game. R.S.O. 1950, c. 153, s. 47. Hunting for hire prohibited

49.—(1) Nothing in this Act prevents the importation of game into Ontario from a place outside Ontario if it is accompanied by an affidavit or statutory declaration, satisfactory to the Minister, that the game was legally taken. R.S.O. 1950, c. 153, s. 48 (1), *amended*. Importation of game

(2) Without the written authority of the Minister, no person shall release into natural cover any animal or bird imported into Ontario or propagated from stock imported into Ontario. R.S.O. 1950, c. 153, s. 48 (2). Release of imported stock

50.—(1) No non-resident entitled to hunt under a licence shall export in any one open season more game actually and lawfully killed by him than one deer, one moose, all bears or their skins, and other species of game in the number authorized to be possessed by the regulations made under this Act or under the *Migratory Birds Convention Act* (Canada). R.S.O. 1950, c. 153, s. 49 (1); 1958, c. 31, s. 9. Export of game by non-residents
R.S.C. 1952, c. 179

(2) The holder of the licence shall attach the shipping coupon to the game or to the receptacle containing it. R.S.O. 1950, c. 153, s. 49 (2). Coupons

FISH AND FROGS

51. The Lieutenant Governor in Council may set apart any waters for the conservation or propagation of fish. R.S.O. 1950, c. 153, s. 50. Waters set apart

52.—(1) No person shall angle for or take fish by any means from waters set apart for the conservation or propagation of fish, but the Minister may permit fish to be taken from such waters for scientific purposes. R.S.O. 1950, c. 153, s. 51 (1), *amended*. Fishing in protected waters prohibited

Angling in
licenced
waters
restricted

(2) No person shall, for the purpose of sale or traffic, angle for or take fish in fishing grounds or waters licensed for the purpose of net fishing and occupied by the holder of a licence for that purpose, or angle for any purpose within twenty-five yards of a pound net. R.S.O. 1950, c. 153, s. 51 (2).

No traffic
in certain
fish

53.—(1) No person shall sell, offer for sale, purchase or barter or be concerned in the sale, purchase or barter of a small-mouthed black bass, large-mouthed black bass, maskinonge, speckled trout, brown trout, rainbow trout, Kamloops trout or Aurora trout, but under a licence issued by the Minister a person may sell speckled trout, brown trout, rainbow trout, Kamloops trout or Aurora trout, if they are propagated by the holder of the licence. R.S.O. 1950, c. 153, s. 52 (1).

Idem

(2) No person shall sell, offer for sale, purchase or barter, or be concerned in the sale, purchase or barter of yellow pickerel (also called pike-perch or dore), pike, lake trout or sturgeon taken from Ontario waters by angling or taken in any other manner by a person without a licence.

Idem

(3) No person shall buy, sell or possess a fish or part of a fish taken from Ontario waters during a closed season for that fish under any Act of the Parliament of Canada. R.S.O. 1950, c. 153, s. 52 (2, 3).

Buoys on
nets

54.—(1) Every person who sets a net for the taking of fish shall attach a buoy to each end of it while it is so set.

Nets and
poles to
bear identi-
fication
marks

(2) Every person who sets a net, or uses a pole for setting baited hooks, shall attach to it the name of the owner legibly marked on two pieces of metal or wood and he shall so preserve those marks during the fishing season as to be visible without taking up the net or pole, and any net or pole without such marks, and the hooks attached to the pole, are liable to confiscation. R.S.O. 1950, c. 153, s. 54.

Joint
liability
of owner
and agent

55. Where a fishery is in charge of a person other than the owner, either as occupant or servant, and any of the provisions of this Act are contravened by that person or by the owner, they are jointly and severally liable for any penalties incurred and all damages recoverable in respect to the contravention. R.S.O. 1950, c. 153, s. 55.

Exclusive
right to
fish in
navigable
waters

56.—(1) The grant by patent of the bed of a navigable water or of a lake or river does not include the exclusive right of fishing in the water that covers or flows over the land granted unless that exclusive right is expressly granted by the patent.

(2) No lease or conveyance made on or after the 26th day of June, 1939, granting the exclusive right of fishing to a person in or along a stream or lake that has been stocked with fish of any variety by the Department or by the late Department of Game and Fisheries at any time after the 1st day of May, 1934, is valid unless the lease or conveyance has been submitted to and approved by the Minister. R.S.O. 1950, c. 153, s. 56. Lease of fishing rights

57. Except under the authority of a licence, no person shall use artificial lights for the taking of frogs. R.S.O. 1950, c. 153, s. 53. Frogs

GENERAL PROVISIONS

58. No person who has taken or killed an animal, bird or fish suitable for food shall allow the flesh to be destroyed or spoilt, and no person who has taken or killed a fur-bearing animal shall allow the pelt to be destroyed or spoilt. R.S.O. 1950, c. 153, s. 57. Flesh and pelt not to be wasted

59. Aircraft shall not be used in connection with hunting operations except as a means of transportation between a settlement or base of operations and a hunting camp that is authorized to operate under a licence, or that is situated on patented land, or that is established on Crown land by Crown authority. R.S.O. 1950, c. 153, s. 59. Use of aircraft

60.—(1) No person, while engaged in hunting or trapping game, or while going to or returning from a hunting camp or locality that game inhabits or where game is usually found, shall, Fire-arms in game areas

(a) have a loaded air-gun or fire-arm in or on, or discharge the same from an aircraft or a motor or other vehicle;

(b) discharge an air-gun or fire-arm from or across a public road, highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, used or intended for use by the public for the passage of vehicles. R.S.O. 1950, c. 153, s. 58 (1); 1959, c. 40, s. 5.

(2) Except as otherwise provided in the *Migratory Birds Convention Act* (Canada) or the regulations made thereunder, no person shall have a loaded air-gun or fire-arm in or on or discharge the same from a power-boat. 1957, c. 39, s. 7; 1959, c. 40, s. 6. Fire-arms in power-boats
R.S.C. 1952, c. 179

(3) An air-gun or fire-arm having a pellet or an unfired shell or cartridge, as the case may be, in the magazine shall be deemed to be loaded within the meaning of this section. R.S.O. 1950, c. 153, s. 58 (2), *amended*. Interpretation

Hunting
predatory
animals

61. Notwithstanding section 59 and clause *a* of subsection 1 of section 60, predatory animals may be hunted from an aircraft or a motor or other vehicle in such areas and subject to such terms and conditions as are permitted in writing by the Minister. R.S.O. 1950, c. 153, s. 61, 1957; c. 39, s. 8.

Automatic
shot-guns

62. No person shall hunt any animal or bird with a repeating, automatic or auto-loading shot-gun that has not been permanently plugged or altered so that it is incapable of holding a total of more than three shells at one time in the chamber and magazine. R.S.O. 1950, c. 153, s. 60 (1).

Use of rifle
to hunt
pheasant
prohibited

63. No person shall hunt pheasant with a rifle. 1959, c. 40, s. 7.

Certain
employees
not to carry
fire-arms

64.—(1) No person, being engaged in cutting timber for any purpose or in a mining operation or in the construction or maintenance of a railway or public work, shall possess, during the closed season for deer or moose any fire-arm, or at any time any poison, snare or trap, in the vicinity of the timber or mining operation, railway or public work, as the case may be, or in or in the vicinity of a dwelling place or structure used in connection therewith unless authorized by the Minister, but this section does not apply to a farmer who does not furnish living accommodation to persons engaged in cutting timber or in mining operations or in the construction or maintenance of a railway or public work. R.S.O. 1950, c. 153, s. 60 (3).

Idem

(2) No person, being employed by a railway company, shall possess any fire-arm, poison, snare or trap on a railway velocipede, hand-car or track motor-car. R.S.O. 1950, c. 153, s. 60 (4); 1953, c. 40, s. 11 (1).

Possession
of guns, etc.,
under
subs. 1,
may be
authorized

(3) The Minister may authorize any person within the meaning of subsection 1 to possess any fire-arm, poison, snare or trap.

Application
of subs. 1

(4) Subsection 1 does not apply during the open season for deer or moose to a person who is licensed to hunt deer or moose. R.S.O. 1950, c. 153, s. 60 (6, 7).

Growing
crops

65.—(1) No person with any sporting implement or fishing rod or tackle in his possession shall enter or allow any dog to enter into growing or standing grain or any other crop, whether of one kind or not, without the permission of the owner. R.S.O. 1950, c. 153, s. 62 (1).

(2) No person in a party of more than twelve persons shall hunt or attempt to hunt or with any gun or sporting implement enter upon any enclosed or unenclosed land in a county without the written permission of the owner or a person authorized by the owner to give such permission. 1956, c. 26, s. 6, *part*.

Hunting in parties exceeding 12

(3) No person shall trespass upon, or without authority enter upon the lands owned by the Crown that are used as experimental fur-farms, bird-farms or trout-rearing stations, or climb over, break or cut through the fences surrounding such lands for the purpose of entering upon them. R.S.O. 1950, c. 153, s. 62 (2); 1958, c. 31, s. 11.

Trespassing on experimental fur-farms, etc.

(4) No person shall tear down, remove, injure, deface or interfere with any notice or sign put up, posted or placed by the Department. R.S.O. 1950, c. 153, s. 62 (3).

Destruction, etc., of Departmental notices

(5) Nothing in this section limits or in any way affects the remedy at common law of an owner for trespass. 1956, c. 26, s. 6, *part*.

Common law remedy for trespass

66.—(1) In this section, "owner" includes a person who is the owner of an interest in land entitling him to the possession of it, but does not include the holder of a timber licence.

Interpretation

(2) No person shall hunt or fish or with any gun or sporting implement, fishing rod or tackle in his possession go upon any enclosed or unenclosed land or water after he has had notice not to hunt or fish thereon by the owner either by word of mouth, in writing or by posters or signboards so placed that they may be observed from any point of access to the land.

Entrance without notice

(3) No person shall,

(a) without authority give or cause to be given the notice mentioned in subsection 2 in respect of land of which he is not the owner; or

Wrongful erection or destruction of notices

(b) tear down, remove, damage, deface or interfere with any poster or signboard placed pursuant to subsection 2.

(4) Nothing in this section limits or in any way affects the remedy at common law of an owner for trespass.

Common law remedy for trespass

(5) Every person found contravening subsection 2 may be apprehended without warrant by a peace officer or by the owner of the land on which the contravention takes place, or by the servant of, or any person authorized by, such owner, and be taken forthwith to the nearest justice of the peace to be dealt with according to law. 1952, c. 33, s. 12.

Right of apprehension

67.—(1) No person shall sublet, transfer or assign any right, interest or privilege granted to or conferred upon him under this Act without the written consent of the Minister.

Transfer of rights or privileges

Cancellation of licence in event of error

(2) The Deputy Minister may, subject to appeal to the Minister, cancel any licence where an error has been made when issuing it from any cause, and the holder has no claim for indemnity or compensation with respect to it other than the adjustment and refund of any excess fee collected. R.S.O. 1950, c. 153, s. 63.

Food falsely described

68. No hotel, restaurant, boarding-house, camp or club shall serve as a part of a meal any game or fish under any pretended name, or serve under a false name any article of food classified as game or fish the sale of which is prohibited under this Act. R.S.O. 1950, c. 153, s. 64.

Shipping coupons and seals

69.—(1) There shall be issued with every hunting licence one or more shipping coupons or seals with which game taken under the licence may be shipped during the open season for the game or within four days thereafter, except that game birds may be shipped at any time within the then current calendar year.

Detachment and cancellation of coupons upon shipment of deer or moose

(2) Where a deer or moose or a part thereof taken under a licence for which a shipping coupon is provided is presented for shipment to a common carrier, a coupon shall be detached from the licence and signed by the holder of the licence in the presence of the shipping agent or clerk in charge of the office at the point of shipment and attached to the animal or part thereof or to the receptacle containing it, and then the shipping agent or clerk shall write "cancelled" across the face of the coupon, but where the animal or any part of it is transported by other than a common carrier, the coupon shall be attached to the animal or part of it and similarly cancelled by the holder of the licence before transporting it.

When seal to be attached to moose

(3) Where a moose is killed under a licence for which a metal seal is provided, the seal shall be attached to the moose immediately after it is killed.

When seal to be attached to deer

(4) Where a deer is killed under a licence for which a metal seal is provided, the seal shall be attached to the deer before it is transported or shipped.

Offences related to shipping

(5) No person shall contravene any of the provisions of subsection 1, 2, 3 or 4, or use an expired coupon or seal, or transport or ship, or assist in transporting or shipping, a moose or deer without a coupon or seal attached thereto. R.S.O. 1950, c. 153, s. 65.

Power of inspection by officers

70. No person employed by a railway company, express company, or other common carrier or engaged in the business of cold storage, or lumbering, or dealing in game and fish,

or in charge of a camp near a fishery or near a place that game inhabits or where game is usually found, or holding a licence, or owning or in charge of a motor vehicle or aircraft, shall refuse to allow an officer to enter and inspect any railway car, building, premises, enclosure, or motor vehicle, or aircraft, or any receptacle for the purpose of examining all game and fish taken, and all implements and appliances for hunting and fishing, or refuse an officer examination of any book, invoice or document containing any entry or memorandum relating to game or fish that the officer suspects of being killed or possessed in contravention of this Act, but he shall afford every reasonable facility for the examination and upon refusal the officer may, without a search warrant, break any lock or fastening that may be necessary in order to conduct the examination. R.S.O. 1950, c. 153, s. 66.

71. Where a seizure of game is made, an officer may remove to safe keeping any books or records kept in accordance with this Act or the regulations. R.S.O. 1950, c. 153, s. 67. Removal of records, etc.

72.—(1) No railway or express company, or other common carrier, or any other person shall ship or transport or cause to be shipped or transported, or receive or possess for shipment or transport, Transport

(a) a deer or moose, or the head or other part thereof, unless there is attached thereto or to the receptacle containing it a shipping coupon or seal mentioned in section 69; of deer or moose

(b) the head or antlers of a moose, unless there are produced at the same time at least the hind quarters of the carcass to which the head or antlers belonged; of moose head or antlers

(c) a deer or moose or any part thereof during the closed season or after the expiry of the shipping coupon or seal attached thereto, except under a licence; or of big game in closed season

(d) fish or game caught, taken or killed in Ontario at a time or in a manner prohibited by law. of fish or game illegally taken

(2) No person shall during the transporting of a deer or moose or its head or other part, conceal or attempt to conceal the whole or any part of the carcass. R.S.O. 1950, c. 153, s. 68 (1, 2). Carcass concealed during transport

(3) The Department may issue at any time a licence to transport deer or moose or any part thereof upon proof by affidavit or statutory declaration satisfactory to the Minister that the deer, moose or part has been lawfully taken. R.S.O. 1950, c. 153, s. 68 (3), *amended*. Transport of deer, moose, etc., without shipping coupon

Receptacles
to be
marked

73. All receptacles in which game or fish or pelts or the skins of any other protected animals are packed for transportation, including transportation by hand or otherwise, shall be plainly marked on the outside in such a manner as to give a list and description of the contents and the name and address of the consignee and of the consignor. R.S.O. 1950, c. 153, s. 69 (1).

Shipment
of pelts

74. Shipments of pelts shall be made by express or parcel post only, and no shipment of pelts shall be made in any other manner except under the authority of a licence. R.S.O. 1950, c. 153, s. 69 (2).

Transport
of game
or fish
under
licence

75. The Minister may issue licences, not inconsistent with any law of Canada, to export from Ontario or to transport in Ontario, at any time, any game or fish, whether dead or alive. R.S.O. 1950, c. 153, s. 70, *amended*.

Refund of
fees

76. The Deputy Minister may direct the refund of the whole or any part of the fee paid for any licence, where, owing to the licence not having been used, or having been used for part only of the period for which it was issued, he deems it just, and the Treasurer of Ontario, upon the written request of the Deputy Minister, shall cause the refund to be made to the holder of the licence. R.S.O. 1950, c. 153, s. 71.

Revenue

77. Except as otherwise provided by this Act, all rentals, licence fees, fines, penalties, proceeds of the sale of game and fish, and of all articles confiscated, and other receipts, fees and revenue under this Act, or under any lease, licence or instrument by this Act authorized, shall be paid to the Treasurer of Ontario. R.S.O. 1950, c. 153, s. 72.

PROCEDURE

Prosecutions

78.—(1) Where an offence against this Act is alleged to have been committed near or on a boundary line between two counties or between two districts or between a county and a district, the prosecution may be brought and heard in either of them. 1951, c. 29, s. 13.

Limitation

(2) The information upon which a prosecution for an alleged contravention of this Act is based shall be laid within twelve months after the commission of the offence, except where the prosecution is for omission to make a return required by this Act.

Offence

(3) A contravention of this Act or of the regulations or of the terms or conditions of a licence is, and may be stated as, an offence against this Act.

(4) The description of an offence in the words of this Act or of the regulations, or in any words to the like effect is sufficient, and an information may be for more than one offence. Description of offence

(5) A contravention of this Act constitutes a separate offence in respect of each animal or bird that is the subject of the prosecution. Multiple offences

(6) Where in a prosecution under this Act it appears in evidence that more than one offence of the same kind was committed at the same time, or on the same day, the court shall in one conviction impose all the penalties at the same time. Similar offences on the same day

(7) The court shall in the conviction adjudge that the person accused and found guilty be imprisoned for a term not exceeding two years, unless the penalty and the costs of prosecution and committal and of conveying him to prison are sooner paid. Committal

(8) A conviction or order made under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction against which a person has a right of appeal shall not be removed at the instance of any person or of the Crown into the Supreme Court by *certiorari* or otherwise. Defects of form

(9) Except where otherwise provided, *The Summary Convictions Act* applies to all prosecutions under this Act. R.S.O. 1950, c. 153, s. 73 (2-9). Procedure R.S.O. 1960, c. 387

EVIDENCE

79. In prosecutions under this Act in respect of,

Onus of proof

- (a) taking, killing, procuring or possessing game or fish, or any part thereof, the onus is upon the person charged to prove that the game or fish or part was lawfully taken, killed, procured or possessed by him;
- (b) setting a net, fishing device or other article, the finding of any of them set in contravention of this Act is *prima facie* proof of the guilt of the person owning, possessing or operating any of them;
- (c) hunting or trapping, the possession in or near a place that game inhabits or where game is usually found of a gun, decoy or other implement for hunting or trapping is *prima facie* proof that the person in possession of any of them was hunting or trapping, as the case may be; or
- (d) making of returns by licensees, the production of a return made by a licensee is *prima facie* proof of the making of such return and the contents thereof. R.S.O. 1950, c. 153, s. 74.

PENALTIES

Penalties

80.—(1) Every person who commits an offence against this Act in respect of,

- (a) caribou, deer or moose is liable to a fine,
 - (i) of not less than \$200 and not more than \$500 for each caribou the subject of the prosecution,
 - (ii) of not less than \$100 and not more than \$300 for each moose the subject of the prosecution, or
 - (iii) of not less than \$50 and not more than \$200 for each deer the subject of the prosecution;
- (b) otter, fisher or marten or their pelts, other than the exporting of any of them, is liable to a fine of not less than \$20 and not more than \$100 for each animal or pelt the subject of the prosecution;
- (c) the exporting of otter, fisher or marten or their pelts is liable to a fine of not less than \$30 and not more than \$200 for each animal or pelt the subject of the prosecution;
- (d) beaver or their pelts, other than the exporting of them, is liable to a fine of not less than \$50 and not more than \$100 for each animal or pelt the subject of the prosecution;
- (e) the exporting of beaver or their pelts is liable to a fine of not less than \$50 and not more than \$200 for each animal or pelt the subject of the prosecution;
- (f) mink or muskrat or their pelts is liable to a fine of not less than \$5 and not more than \$25 for each mink, muskrat or pelt the subject of the prosecution; or
- (g) any fur-bearing animal upon which a royalty is levied under section 28, other than beaver, fisher, marten, mink, muskrat or otter, is liable to a fine of not less than \$1 and not more than \$20 for each animal or pelt the subject of the prosecution. R.S.O. 1950, c. 153, s. 75 (1); 1951, c. 29, s. 14; 1960, c. 40, s. 8 (1).

Contra-
vention of terms
of licence

- (2) Every person who contravenes the terms or conditions of his licence is liable to a fine of not less than \$15 and not more than \$300. R.S.O. 1950, c. 153, s. 75 (2); 1959, c. 40, s. 8 (1).

(3) Every person who contravenes section 74 is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1950, c. 153, s. 75 (3). Shipment of pelts

(4) Every person who contravenes subsection 8 of section 6 is liable to a fine of not less than \$100 and not more than \$500. R.S.O. 1950, c. 153, s. 75 (7). Obstructing officers

(5) Every person who contravenes subsection 2 of section 11 is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1950, c. 153, s. 75 (4); 1953, c. 40, s. 12. Fire-arms on Crown game preserves

(6) Every person who contravenes subsection 7 of section 25 is liable to a fine of not less than \$20 and not more than \$100. R.S.O. 1950, c. 153, s. 75 (5-8). Multiplicity of licences

(7) Every person who contravenes subsection 3 of section 65 is liable to a fine of not less than \$100 and not more than \$500. R.S.O. 1950, c. 153, s. 75 (6). Trespass on Crown property

(8) Except as otherwise provided in this Act, every person who commits an offence against or contravenes this Act is liable to a fine of not less than \$15 and not more than \$100. R.S.O. 1950, c. 153, s. 75 (9); 1959, c. 40, s. 8 (2). General penalty

(9) Every person who, after having been convicted of an offence against this Act, within two years again offends against this Act is liable to a fine of not less than double the minimum fine provided for the offence and, upon a third or subsequent conviction at any time thereafter, is liable to a fine of not less than the maximum penalty provided for the offence. Second and subsequent offences

(10) No court shall remit any fine or reduce the amount of the fine after conviction, but, if the fine exceeds \$200, the Minister may remit the excess. Remission or reduction of penalties

(11) When an offence against this Act is committed in a provincial park or within one mile thereof, the minimum and maximum fines incurred shall be increased to double the amount set forth in this section for that offence. R.S.O. 1950, c. 153, s. 75 (10-12). Offence in provincial park

81.—(1) All game or fish suspected of having been taken or possessed and all vehicles of every description, aircraft, guns, ammunition, traps, trapping accessories, snares, boats, rafts, skiffs, canoes, punts and vessels of every description, decoys, nets, rods, lines, tackle, all fishing gear, materials, Seizure and confiscation of game and other property

implements and appliances of every kind used for hunting or fishing, packages, crates and containers of every description,

- (a) suspected of having been used; or
- (b) used in transporting fish or game suspected of having been taken or possessed,

R.S.C. 1952,
c. 179 in contravention of this Act or the regulations, the Ontario Fishery Regulations or the *Migratory Birds Convention Act* (Canada) or the regulations made under that Act shall be seized and, upon conviction, are forfeit to the Crown in right of Ontario and shall be sold by the Department, but, where the seizure is made from a person unknown, perishable game or fish is forfeit to the Crown in right of Ontario and may be sold forthwith by the Department or given to a charitable institution and any other property seized is forfeit to the Crown in right of Ontario and shall be sold or otherwise disposed of by the Department after the expiration of thirty days. 1960, c. 40, s. 9 (1).

Unlicensed
seines to
be seized

(2) If a seine net that has been found in or near waters in which fishing by seines is permitted is not claimed within two days by a person holding a licence to fish with a seine net, or has been found in or near waters in which fishing by seines is prohibited, shall be seized and is forfeit to and becomes the property of the Crown in right of Ontario and sold by the Department. R.S.O. 1950, c. 153, s. 76 (2).

Relief from
forfeiture

(3) Where the Minister is satisfied that the seizure of any property, other than game or fish, would work undue hardship or injustice, the Minister may grant relief from forfeiture and direct its return to the person from whom it was taken upon such terms as he deems just. R.S.O. 1950, c. 153, s. 76 (3); 1960, c. 40, s. 9 (2).

Disposal
of certain
properties
seized

(4) The Deputy Minister may after a conviction authorize an officer to destroy any property forfeited, the possession of which is at all times unlawful, or any property having no commercial value, and also authorize any perishable game or fish to be given to a charitable institution. R.S.O. 1950, c. 153, s. 76 (4).

Cancellation
and revival
of licence
after
conviction

(5) Subject to subsection 6, a licence held by a person convicted of an offence against this Act or the Ontario Fishery Regulations shall be deemed to be cancelled without further action or notice, but the Minister may revive the licence where there has been no other conviction for an offence against this Act or the Ontario Fishery Regulations during the period of two years immediately preceding the cancellation.

(6) Upon the conviction of any person of an offence under *The Forest Fires Prevention Act* or under section 165, 191, 192, 193, 372, 373, 374, 375, 377, 383, 384, 385 or 386 of the *Criminal Code* (Canada) as amended or re-enacted from time to time committed while using or in possession of a fire-arm or air-gun for the purpose of hunting, the magistrate or court may cancel any licence to hunt issued to such person and upon such conviction or upon the conviction of any person for an offence against this Act, the magistrate or court may order that such person shall not apply for or procure any such licence during the period up to five years immediately following the year in which the conviction was made that is mentioned in the order.

Cancellation and prohibition against issue of licences
R.S.O. 1960, c. 152
1953-54, c. 51 (Can.)

(7) Every person who fails to comply with an order made against him under subsection 6 is guilty of an offence against this Act. 1956, s. 26, s. 7.

Offence

REGULATIONS

82.—(1) The Lieutenant Governor in Council may make Regulations regulations,

1. establishing classes for licences referred to in the Act and the Ontario Fishery Regulations, governing the issue, form, renewal, transfer, refusal and cancellation of licences or any class of them, prescribing their duration, territorial limitation, terms and conditions, and the fees payable therefor, and limiting the number of licences of any class that may be issued;
2. respecting the issue of licences to trap fur-bearing animals on Crown lands, providing for the transfer of such licences, prescribing the conditions governing such transfers and dividing Ontario or any part thereof into trap-line areas and designating such areas by identifying numbers and initials;
3. prescribing the terms and conditions upon which licences may be issued to persons under sixteen years of age;
4. providing for and establishing a programme to promote the safe handling of fire-arms by hunters;
5. declaring animals, other than those mentioned in clause 11 of section 1, to be fur-bearing animals;
6. respecting the keeping of the game mentioned in clause a of section 44;

7. prescribing the number of species of game that may be possessed;
8. providing that every person holding any lease or licence under this Act, and all fish companies and fish dealers, keep such records and make such reports and returns as are prescribed;
9. prescribing the records that shall be kept and the returns that shall be made by farmers under subsection 4 of section 7;
10. authorizing the council of any county to declare open season for the hunting of foxes at any time from the 1st day of March to the 31st day of October in any year;
11. for granting without fee a licence to a guest of Ontario to angle and hunt;
12. for licensing persons who are conveyed by aircraft to fishing waters for the purpose of angling or to hunting grounds for the purpose of hunting, defining the classes of person to whom such regulations do or do not apply, governing the issue, form, renewal, transfer, refusal, inspection and cancellation of such licences and prescribing their terms and conditions and the fees payable therefor, and prescribing the methods of proving or disproving alleged breaches of such regulations;
13. for licensing persons to hunt in any provincial park in which hunting is permitted under paragraph 19 or on Crown lands in any part of Ontario designated under paragraph 25, governing the issue, form, renewal, transfer, refusal, inspection and cancellation of such licences and prescribing their terms and conditions and the fees payable therefor;
14. prescribing a closed season for, and restricting the taking of, frogs and setting apart suitable waters for their propagation;
15. designating water areas in which non-resident owners, operators or persons in charge of inboard motor-boats used for angling shall employ licensed guides;
16. restricting or prohibiting the possession of air-guns or fire-arms in any part of Ontario in which it appears desirable to take special means to prevent contraventions of this Act;

17. respecting the possession of air-guns or fire-arms mentioned in clause *a* or *b* of section 47;
18. regulating or prohibiting the use of snares;
19. prescribing the conditions under which birds, fur-bearing animals and game may be hunted in provincial parks, providing for and regulating the possession or use of traps, fire-arms, explosives or weapons in provincial parks, and prohibiting the use of motor boats for trolling in provincial parks;
20. authorizing and regulating the sale of game imported into Ontario and lawfully hunted or procured according to the law of the place in which it was hunted or procured;
21. prescribing the open seasons during which and the terms and conditions upon which and the parts of Ontario in which caribou, deer or moose may be hunted;
22. prescribing the open seasons during which and the terms and conditions upon which ruffed grouse, spruce partridge, Hungarian partridge, pheasant, sharp-tailed grouse, prairie-hen, ptarmigan, quail or wild turkey may be hunted;
23. prescribing the terms and conditions upon which a licence may be issued to propagate or sell any bird mentioned in subsection 1 of section 38;
24. designating parts of Ontario in which no person shall hunt any game at any time of the year, subject to such exceptions as are deemed reasonable;
25. designating parts of Ontario in which hunting on Crown lands therein may be regulated, and limiting and regulating the number of hunters that may hunt at any time and the hours during which hunting may be carried on, and prescribing the fees that may be charged for the use of blinds, decoys, punts, skiffs, canoes and other appliances and things supplied by the Department in connection therewith;
26. prohibiting for a period of not more than three years at a time the hunting, purchase, sale or possession of any game bird, non-game bird or any insectivorous bird, where they are not protected by the *Migratory Birds Convention Act* (Canada);

27. governing or prohibiting the sale of or traffic in any bird mentioned in section 38, prescribing the fees payable for a seal, tag or other means of identification that is furnished by the Department to the holder of a licence to sell any such bird, and requiring such holder to use such seal, tag or other means of identification in the manner prescribed by the regulations;
28. limiting the number of licences that may be issued to own or operate pheasant hunting preserves, prescribing minimum and maximum areas for preserves, requiring and regulating the posting of boundaries of preserves and the release of pheasants on preserves, regulating the spacing of preserves, the taking or killing of pheasants on preserves and the use of preserves for hunting;
29. exempting Indians in the northerly or northwesterly or any sparsely settled parts of Ontario, whether organized or unorganized, from any provision of this Act;
30. designating any sparsely settled parts of Ontario as "hinterland areas" and prohibiting persons, other than residents of the areas, from entering and travelling about therein for the purpose of angling or hunting;
31. designating any parts of Ontario as densely-settled parts for the purpose of subsection 3 of section 34;
32. permitting residents of any province extending a similar right to Ontario residents to be classed as Ontario residents for the purpose of any specified licence under this Act,
33. for making, keeping, searching for, obtaining and taking over all archives, records, books, regulations, orders in council, documents and accounts in the custody of the Government of Canada or of the Government of Ontario, or otherwise existing, in any way relating to the game or fisheries of Ontario;
34. prescribing the royalties payable in respect of fish or under section 28, and excepting any fish or fur-bearing animal therefrom;
35. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 153, s. 77; 1951, c. 29, s. 15; 1952, c. 33, s. 13; 1955, c. 25, s. 4; 1957, c. 39, s. 9; 1958, c. 31, s. 12; 1959, c. 40, s. 9; 1960, c. 40, s. 10 (1-3), *amended*.

(2) The Minister may make regulations prescribing the ^{Idem} open seasons during which and the terms and conditions upon which and the localities in which beaver, fisher, fox, lynx, marten, mink, muskrat, otter, rabbit, raccoon or black, grey or fox squirrel may be trapped or hunted or the pelt of any of them possessed. *New*.

(3) Any regulation may be limited territorially or as to ^{Regulations} time or otherwise. 1960, c. 40, s. 10 (4).

CHAPTER 159

The Gaming Act

1. Every agreement, note, bill, bond, confession of judgment, *cognovit actionem*, warrant of attorney to confess judgment, mortgage or other security, or conveyance, the consideration for which, or any part of it, is money or other valuable thing won by gaming, or by playing at cards, dice, tables, tennis, bowls or other game, or by betting on the sides or hands of the players, or for reimbursing or repaying any money knowingly lent or advanced for such gaming or betting, or lent or advanced at the time and place of the game or play to a person so gaming, playing, or betting, or who, during the game or play, so plays, games or bets, shall be deemed to have been made, drawn, accepted, given or executed for an illegal consideration. R.S.O. 1950, c. 154, s. 1.

Gaming transactions illegal

2. If any person makes, draws, gives or executes any note, bill or mortgage for any consideration that is declared to be illegal by section 1 and actually pays to an endorsee, holder or assignee of the note, bill or mortgage the amount of the money thereby secured or any part thereof, such money shall be deemed to have been paid for and on account of the person to whom the note, bill or mortgage was originally given and to be a debt due and owing from such last named person to the person who paid the money, and accordingly is recoverable by action. R.S.O. 1950, c. 154, s. 2.

Recovery of money paid on gaming transaction

3. Any person who, at any time or sitting, by playing at cards, dice, tables or other game, or by betting on the sides or hands of the players, loses to any person so playing or betting, in the whole, the sum or value of \$40 or upwards, and pays or delivers the same or any part thereof, may, within three months thereafter, sue for and recover the money or thing so lost and paid or delivered. R.S.O. 1950, c. 154, s. 3.

Recovery of money lost at one sitting to the extent of \$40 or more

4. Every contract or agreement by way of gaming or wagering is void, and no suit shall be brought or maintained for recovering any sum of money or valuable thing alleged to be won upon a wager, or that has been deposited in the hands of any person to abide the event on which a wager has been

Payment of wagers not enforceable

made, but this section does not apply to a subscription or contribution, or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner of any lawful game, sport, pastime or exercise. R.S.O. 1950, c. 154, s. 4.

5. Any promise, express or implied, to pay any person a sum of money paid by him under or in respect of a contract or agreement rendered void by section 4, or to pay a sum of money by way of commission, fee, reward or otherwise in respect of such a contract or agreement, or of any services in relation thereto or in connection therewith, is void, and no action shall be brought or maintained to recover any such sum of money. R.S.O. 1950, c. 154, s. 5.

Promises to
repay sums
paid under
contract
void by
section 4

CHAPTER 160

The Gas and Oil Leases Act

1. In this Act,

Interpre-
tation

- (a) "gas or oil lease" includes any agreement, whether by way of option, lease, grant or otherwise, granting the right to operate lands for the production and removal of natural gas or petroleum or both, except a grant to so operate where the amount or payment of the consideration therefor is not dependent upon the operation of such lands or upon the production of gas or oil or upon the amount of gas or oil produced, and "lessee" and "lessor" have a corresponding meaning and include heirs, successors, administrators, executors and assigns of the lessee or lessor, as the case may be;
- (b) "judge" means the judge of the county or district court of the county or district in which the land is situate. R.S.O. 1950, c. 155, s. 1.

2.—(1) Where the lessor of any land alleges that a lessee has made default under the terms of a gas or oil lease affecting the land in that,

Inquiry as
to default

- (a) he has failed to commence to drill a well for natural gas or petroleum and has failed to pay rentals in lieu thereof; or
- (b) having drilled a well for natural gas or petroleum, he has failed to operate the well and has failed to pay rentals, royalties or other remuneration,

and that the default has continued for a period of three years, the lessor may apply, upon affidavit, to a judge for an order declaring the lease void and vacating the registration thereof.

(2) The judge shall, in writing, appoint a time and place at which he will inquire and determine whether default has been made as aforesaid.

Judge to
inquire into
default

(3) A notice in writing of the time and place appointed, together with a copy of any affidavit used upon the application, shall be served upon the lessee either by delivering them

Notice of
inquiry

to him, leaving them at his residence or sending them to him by registered mail at his address, as indicated in the lease, or at his last known address, or in such other manner and at such other address as the judge directs, not less than thirty days before the return of the appointment.

Service of
appoint-
ment

(4) Where an assignment or transfer of the lease has been registered in the proper registry or land titles office, the appointment shall be served upon the assignee or transferee, instead of the original lessee, in the manner prescribed in subsection 3. R.S.O. 1950, c. 155, s. 2, *revised*.

Style of
proceedings

3. The proceedings shall be entitled in the county or district court of the county or district in which the land lies, and shall be styled:

"In the matter of, Lessor,
and, Lessee." R.S.O. 1950, c.
155, s. 3.

Where
lessee fails
to appear

4.—(1) If at the time and place appointed the lessee fails to appear and it appears to the judge that default as indicated in clause *a* or *b* of subsection 1 of section 2 has continued for a period of three years, he may, notwithstanding any provision in the gas or oil lease requiring the lessor to give notice to the lessee of any default, make an order declaring that the gas or oil lease is void and vacating the registration thereof.

Where lessee
appears

(2) If the lessee appears, the judge shall, in a summary manner, hear the parties and their witnesses and examine into the matter, and, if it appears to the judge that default as indicated in clause *a* or *b* of subsection 1 of section 2 has continued for a period of three years, he may, notwithstanding any provision in the gas or oil lease requiring the lessor to give notice to the lessee of any default, make an order declaring that the gas or oil lease is void and vacating the registration thereof.

Description
of land

(3) Every order shall contain a description of the land affected or a reference to the lease so terminated by its recorded number. R.S.O. 1950, c. 155, s. 4.

Irregulari-
ties in
procedure

5. The judge has the same power to amend or excuse irregularities in the proceedings as he has in an action. R.S.O. 1950, c. 155, s. 5.

Drilling
not to be
taken into
account

6. Any drilling done or sought to be done and any rentals or other remuneration tendered but not accepted after the making of the application shall not be taken into account by the judge upon the hearing of the application. R.S.O. 1950, c. 155, s. 6.

7. An appeal lies to the Court of Appeal from the order of ^{Appeal} the judge granting or refusing an order under section 4. R.S.O. 1950, c. 155, s. 7.

8. A copy of any order made under section 4, certified by ^{Registration} the clerk of the court under the seal of the court, shall, upon _{of order} payment of the prescribed fee, be recorded by the proper registrar of the deeds or local master of titles and, in the case of a registry office, particulars thereof shall be entered in the proper abstract index. R.S.O. 1950, c. 155, s. 8, *revised*.

CHAPTER 161

The Gasoline Handling Act

1. In this Act,

Interpre-
tation

- (a) "gasoline" includes any liquid produced, prepared or compounded for the purpose of generating power by means of internal combustion or that may be used for such purpose, except the product commonly known as kerosene or coal oil when such product is not mixed or combined with gasoline as described by this clause;
- (b) "Minister" means the Treasurer of Ontario;
- (c) "person" includes a firm, partnership, corporation, club, association and syndicate;
- (d) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 156, s. 1; 1955, c. 26, s. 1.

2.—(1) No person shall offer for sale or sell gasoline, kerosene or distillate in Ontario unless licensed so to do by the Minister. Licence to
sell
gasoline

(2) No person, other than a railway company, shall transport gasoline, kerosene or distillate in Ontario unless licensed so to do by the Minister. Licence to
transport
gasoline

(3) Where it appears to the satisfaction of the Minister that a vendor of kerosene or distillate is retailing it for domestic purposes other than the generating of power by means of internal combustion, and the quantity of it retailed by him during the calendar year is not in excess of one thousand gallons, the Minister may exempt the vendor from this section. Exemption

(4) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$100, or to a term of imprisonment of not less than ten days and not more than one month, or to both, and for a second or subsequent offence, to a fine of not less than \$100 and not more than \$500, or to a term of imprisonment of not less than one month and not more than six months, or to both. R.S.O. 1950, c. 156, s. 2. Offence

Licence to
mix
gasoline

3.—(1) No person shall mix, combine or compound any constituent of gasoline with any other substance or material whether a constituent of gasoline or not, for the purpose of offering the mixture, combination or compound for sale unless licensed so to do by the Minister.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$100 and not more than \$500, or to a term of imprisonment of not less than one month and not more than three months, or to both, and for a second or subsequent offence to a fine of not less than \$500 and not more than \$1,000, or to a term of imprisonment of not less than three months and not more than six months, or to both. R.S.O. 1950, c. 156, s. 3.

Powers of
Minister

4. The Minister may grant or refuse to grant a licence under this Act to any person and may revoke or suspend any licence issued under this Act. R.S.O. 1950, c. 156, s. 4.

Returns as
to sale, etc.,
of gasoline

5. Every person who, in Ontario, during any calendar month has manufactured gasoline, or has combined or compounded any constituent of gasoline with any other substance or material, whether a constituent of gasoline or not, for the purpose of offering the mixture, combination or compound for sale, or has imported gasoline into Ontario, or usually manufactures or imports gasoline, shall within ten days immediately following the end of such calendar month, furnish to the Minister a return in the prescribed form. R.S.O. 1950, c. 156, s. 5.

Returns of
persons
receiving
importa-
tions of
gasoline

6. When gasoline is shipped from a place out of Ontario to a place in Ontario by means of a carrier, the person receiving the gasoline in Ontario shall obtain and retain the bill of lading issued for the shipment and show it to any officer of the Treasury Department having general charge of the carrying out of this Act and the regulations, on his request, but every such inspection shall be made within two years from the receiving of the gasoline and, when the shipment is made by land or water by means of a conveyance belonging to or controlled by the shipper or by the consignee, the person receiving the gasoline in Ontario shall state in his return to the Minister the means of conveyance, the points of shipment and destination and, if the shipment is made by water, the name of the vessel in which it is made. R.S.O. 1950, c. 156, s. 6; 1955, c. 26, s. 2.

Returns of
transporter

7. Every person who during any calendar month transports gasoline from a place out of Ontario to a place in Ontario, shall within ten days immediately following the end of such

calendar month furnish to the Minister a return in the prescribed form showing the quantity of gasoline so transported and the name of the person to whom it was delivered in Ontario. R.S.O. 1950, c. 156, s. 7.

8. No provision of this Act shall be interpreted as forbidding the continuous transportation of gasoline with or without trans-shipment through Ontario from a place out of Ontario to any other place out of Ontario, but the transportation of any gasoline without a bill of lading evidencing shipment from a place out of Ontario to any other place out of Ontario creates a *prima facie* presumption that the gasoline is intended for delivery in Ontario. R.S.O. 1950, c. 156, s. 8.

Exception as to shipments through Ontario

9.—(1) The Minister may require any manufacturer, importer, jobber or vendor of gasoline to instal, at his own expense, automatic meters or other apparatus approved by the Minister.

Installation of mechanical appliances

(2) The use of such meters or other apparatus is subject to the control of the Minister who may also at any time require the use of such other apparatus or devices as he deems advisable. R.S.O. 1950, c. 156, s. 9.

Approval of apparatus by Minister

10. Every officer of the Treasury Department having general charge of the carrying out of this Act and the regulations, and every inspector and any other person specially authorized by the Minister, may,

Inspection

(a) enter, at any reasonable hour, the premises of any manufacturer, importer, jobber or vendor of gasoline and examine all books and records, take measurements and otherwise obtain all information from the manufacturer, importer, jobber or vendor and the servants, agents and employees of the manufacturer, importer, jobber or vendor as he deems necessary or desirable; and

(b) take from any premises or conveyance samples or specimens of any liquid that he has reason to believe is, or contains gasoline, distillate or kerosene. R.S.O. 1950, c. 156, s. 10; 1955, c. 26, s. 3.

11. In addition to any other remedies given by this Act in the case of any person selling gasoline without having a subsisting licence under this Act, any person acting under the authority and instructions of the Minister may close the place or places of business of such person and prevent any sale of gasoline by him until he has complied with this Act and the regulations. R.S.O. 1950, c. 156, s. 11.

Power to close premises for contravention of Act

Regulations

12.—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act and the regulations;
- (b) providing for the issuing of licences authorized by this Act and for the production or posting thereof and prescribing the fees payable therefor;
- (c) prescribing the records and books relating to gasoline, kerosene and distillate to be kept by any person or class of persons whether or not such person or class of persons is licensed under this Act;
- (d) providing for the making of returns and statements by any person or class of persons whether or not such person or class of persons is licensed under this Act;
- (e) exempting any person or class of persons from the operation of or compliance with this Act or the regulations, or of any of the provisions thereof;
- (f) requiring that all gasoline stored or offered for sale in Ontario shall be graded according to such scale as the regulations prescribe;
- (g) requiring importers, manufacturers, jobbers and vendors of gasoline to indicate the grade and price of gasoline offered for sale;
- (h) fixing the grade or quality of gasoline that may be offered for sale;
- (i) providing for the sealing of pumps, tanks, reservoirs and other containers of gasoline;
- (j) prescribing the construction, equipment and operation of conveyances and containers used for the transportation and storage of gasoline, kerosene and distillate;
- (k) prescribing the method, manner, equipment and location of equipment to be used in the handling, storing, selling and disposing of gasoline, kerosene and distillate;
- (l) providing for the holding of inquiries into the operation of this Act and into any charge or complaint that any person has contravened any provision of this Act or the regulations, or has made any false statement in any return or statement required to be

made by this Act or the regulations, or into any other matter arising in the administration of this Act, and providing that the person holding such inquiry shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act* including the power to take evidence under oath; R.S.O. 1960,
c. 323

- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 156, s. 12; 1953, c. 41, s. 1 (1).

(2) Every regulation made under the authority of subsection 1 shall be deemed to be within the scope of this Act whether it is made for the purpose of facilitating the collection of the charge or tax under *The Gasoline Tax Act* or for the purpose of ensuring the safety of persons or property, or for both such purposes. Scope of
regulations

R.S.O. 1960,
c. 162

(3) Where conflict exists between any regulation made under the authority of subsection 1 and any by-law passed by a municipality in the exercise of its powers, the regulation prevails. 1953, c. 41, s. 1 (2). Conflict
with
municipal
by-law

13. Every person who signs any return or statement required by this Act or the regulations containing any false statement is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$100 and not more than \$1,000 or to a term of imprisonment of not less than one month and not more than six months, or to both, and for any subsequent offence to a fine of not less than \$500 and not more than \$5,000 or to a term of imprisonment of not less than six months and not more than three years, or to both. R.S.O. 1950, c. 156, s. 13. False
return

14. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$100 or to a term of imprisonment of not less than ten days and not more than one month, or to both, and for any subsequent offence to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not less than one month and not more than six months, or to both. R.S.O. 1950, c. 156, s. 14. General
penalty

15.—(1) No person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. Informa-
tion to be
secret

Offence

(2) Every person who contravenes this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 156, s. 15.

Information
to be laid
within three
years

16. Any information with respect to a contravention of this Act or the regulations may be laid within three years from the time when the matter of such information arose, and not afterwards. R.S.O. 1950, c. 156, s. 16 (1), *amended*.

Disposition
of fines

17. The fines imposed by this Act are payable to the Minister. R.S.O. 1950, c. 156, s. 16 (2).

CHAPTER 162

The Gasoline Tax Act

1. In this Act,

Interpre-
tation

- (a) "aviation fuel" includes any gas or liquid that is sold to be used or is used to create power to propel an aircraft and any product that is designated to be aviation fuel by the regulations;
- (b) "gasoline" includes aviation fuel and any gas or liquid produced, prepared or compounded for the purpose of generating power by means of internal combustion or that may be used for such purpose, but does not include the products commonly known as fuel oil, coal oil, kerosene and such products as are excluded from this Act by the regulations except when any product commonly known as fuel oil, coal oil, kerosene and any such product as is excluded from this Act by the regulations is aviation fuel or when any such product is mixed or combined with gasoline as described by this clause;
- (c) "Minister" means the Treasurer of Ontario;
- (d) "purchaser" means any person purchasing or receiving delivery in Ontario of gasoline for his own use;
- (e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 157, s. 1; 1955, c. 27, s. 1; 1960, c. 41, s. 1.

2. Every purchaser of gasoline shall pay to the Minister for the use of the Crown in right of Ontario a charge or tax at the rate of 13 cents per imperial gallon on all gasoline purchased or delivery of which is received by him. R.S.O. 1950, c. 157, s. 2; 1957, c. 40, s. 2.

Tax
payable by
purchaser

3. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the collection of the charge or tax imposed by this Act and designating the persons by whom it shall be collected;

- (b) prescribing the remuneration to be paid to persons charged with the collection of the charge or tax imposed by this Act;
- (c) requiring the furnishing of surety bonds by persons charged with the collection of the charge or tax imposed by this Act and prescribing the form and amount of such bonds;
- (d) providing for the accounting for and paying over of any sums of money collected by or payable to the persons charged with the collection of the charge or tax imposed by this Act and regulating the time and manner of such accounting and payment;
- (e) prescribing the returns and statements to be made by importers, manufacturers, vendors and purchasers of gasoline, the information to be given in such returns and statements and by whom and in what manner they shall be made;
- (f) excluding products from this Act;
- (g) designating products to be aviation fuel;
- (h) exempting any class of persons from the payment of the charge or tax imposed by this Act;
- (i) providing for the refund of the charge or tax paid under this Act, or any portion thereof, to any purchaser or class of purchasers and prescribing the records and material to be furnished upon any application for a refund;
- (j) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act and the regulations;
- (k) providing for the holding of inquiries into the operation of this Act and into any charge or complaint that any person has contravened any provision of this Act or the regulations, or has made any false statement in any return or statement required to be made by this Act or the regulations, or into any other matter arising in the administration of this Act, and providing that the person holding such inquiry shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act* including the power to take evidence under oath;

- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 157, s. 3; 1957, c. 40, s. 3; 1960, c. 41, s. 2.

4. Every person charged with the collection of the charge ^{False returns} or tax imposed by this Act and every officer, agent or employee of every such person who signs any return or statement required by this Act or the regulations, containing any false statement, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$500 and not more than \$5,000 or to a term of imprisonment of not less than six months and not more than three years, or to both, and for any subsequent offence to a fine of not less than \$1,000 and not more than \$10,000 or to a term of imprisonment of not less than one year and not more than seven years, or to both. R.S.O. 1950, c. 157, s. 4.

5. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$100 or to a term of imprisonment of not less than ten days and not more than thirty days, or to both, and for any subsequent offence to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not less than thirty days and not more than six months, or to both. R.S.O. 1950, c. 157, s. 5. ^{General penalty}

6.—(1) No person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. ^{Information to be secret}

(2) Every person who contravenes this section is guilty of ^{Offence} an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 157, s. 6.

7. Any information with respect to any contravention of this Act or the regulations may be laid within three years ^{Information to be laid within three years} from the time when the matter of such information arose, and not afterwards. R.S.O. 1950, c. 157, s. 7 (1), *amended*.

8. The fines imposed by this Act are payable to the Minister. R.S.O. 1950, c. 157, s. 7 (2). ^{Disposition of penalties}

CHAPTER 163

The General Sessions Act

1. In this Act, "court" means a court of general sessions of the peace. R.S.O. 1950, c. 158, s. 1. Interpretation

2. The courts of general sessions of the peace have jurisdiction to try all criminal offences except the offences mentioned in subsection 2 of section 413 of the *Criminal Code* (Canada). R.S.O. 1950, c. 158, s. 2. Jurisdiction
1953-54,
c. 51 (Can.)

3.—(1) Except where otherwise provided, in each year the sittings of the court shall be held in every county commencing on the first Monday in June and December. R.S.O. 1950, c. 158, s. 3 (1). Sittings,
general
rule

(2) In the counties of Frontenac, Grey, Hastings, Kent, Ontario, Peterborough and Welland the sittings of the court in each year shall commence on the first Monday in June and the third Monday in November. 1952, c. 34, s. 1 (1), *part*; 1958, c. 32, s. 1. Exceptions:
Frontenac,
Grey, Hast-
ings, Kent,
Ontario,
Peter-
borough,
Welland

(3) In the county of Carleton the sittings of the court in each year shall commence on the first Monday in February, April and October. R.S.O. 1950, c. 158, s. 3 (2); 1953, c. 42, s. 1 (1). Carleton

(4) In the county of Essex the sittings of the court in each year shall commence on the first Monday in April and the third Monday in November. R.S.O. 1950, c. 158, s. 3 (3). Essex

(5) In the county of Lincoln the sittings of the court in each year shall commence on the first Monday in May and the first Monday in November. 1952, c. 34, s. 1 (1) *part*; 1953, c. 42, s. 1 (2). Lincoln

(6) In the county of Middlesex the sittings of the court in each year shall commence on the second Monday in May and November. R.S.O. 1950, c. 158, s. 3 (4); 1952, c. 34, s. 1 (2). Middlesex

(7) In the county of Simcoe the sittings of the court in each year shall commence on the first Monday in June and the last Monday in November. R.S.O. 1950, c. 158, s. 3 (5); 1957, c. 42, s. 1. Simcoe

Wentworth

(8) In the county of Wentworth the sittings of the court in each year shall commence on the last Wednesday in February and November and on the first Wednesday in May and September. R.S.O. 1950, c. 158, s. 3 (6).

York

(9) In the county of York the sittings of the court in each year shall commence on the first Monday in December, March and May and on the second Monday in September. R.S.O. 1950, c. 158, s. 3 (7); 1953, c. 42, s. 1 (3).

Postpone-
ment of
sittings

(10) The judge of a county court may postpone any sittings of the court if the postponement does not in his opinion conflict or interfere with the sittings of the Supreme Court in such county. 1952, c. 34, s. 1 (3).

Notice of
postpone-
ment

(11) Where such a sittings is so postponed, notice of the postponement and of the date upon which the sittings will commence shall be posted in the office of the county court clerk not later than sixty days before the commencement of such postponed sittings. R.S.O. 1950, c. 158, s. 3 (9); 1952, c. 34, s. 1 (4).

Lieutenant
Governor
may specify
opening day

(12) Where it is deemed necessary or expedient in respect of any county, the Lieutenant Governor in Council may specify a different opening day for the sittings of the court from those provided in this section, in which case the sittings shall be held on the day specified. R.S.O. 1950, c. 158, s. 3 (10).

Concurrent
sittings

4. In any county two or more concurrent sittings of the court may be held for the trial of cases with or without a jury and the hearing of appeals. R.S.O. 1950, c. 158, s. 4.

Place of
sittings

5. The sittings of the court shall be held in the county town of the county, unless the Lieutenant Governor, by proclamation, authorizes the holding of the sittings at some other place in the county. R.S.O. 1950, c. 158, s. 5.

Sittings in
provisional
judicial
districts

6. In the provisional judicial districts sittings of the court shall be held at the same time and place as the sittings of the district courts for the trial of issues of fact and assessment of damages with or without a jury. R.S.O. 1950, c. 158, s. 6.

Who may
preside

7. The judge of the county or district court, as the case may be, or a junior or an acting judge shall be the chairman of the court and shall preside at the sittings thereof. R.S.O. 1950, c. 158, s. 7; 1957, c. 42, s. 2.

Presence of
justice
unnecessary

8. Where a judge is present, it is not necessary in order to constitute the court that a justice of the peace be present. R.S.O. 1950, c. 158, s. 8.

9.—(1) Where a judge is unable to hold the sittings at the time appointed, the sheriff or his deputy may, by proclamation, adjourn the court to any hour on the following day to be by him named, and so from day to day until a judge is able to hold the court or until he receives other directions from the judge or from the Attorney General.

When
adjourn-
ment
permitted

(2) The sheriff shall forthwith give notice of such adjournment to the Attorney General. R.S.O. 1950, c. 158, s. 9.

Attorney
General to
be notified

10. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may,

Rules, fees,
forms

- (a) make rules for regulating the practice and procedure in the county and district courts;
 - (b) make rules and regulations regulating and fixing all fees payable to the Crown in respect of proceedings in such courts;
 - (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
 - (d) prescribe forms for use in such courts. R.S.O. 1950, c. 158, s. 10.
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CHAPTER 164

The General Welfare Assistance Act**1. In this Act,**Interpre-
tation

- (a) "assistance" means a class of assistance that is provided under this Act for the general welfare of unemployed persons or unemployable persons;
- (b) "Director" means the Director of the General Welfare Assistance Branch of the Department of Public Welfare;
- (c) "Minister" means the Minister of Public Welfare;
- (d) "municipal welfare administrator" means a person appointed as such for the purposes of this Act;
- (e) "recipient of a governmental benefit" means a person,
 - (i) who is a pensioner under the *Old Age Security Act* (Canada), or R.S.C. 1952,
c. 200
 - (ii) who is a recipient under *The Blind Persons' Allowances Act*, *The Disabled Persons' Allowances Act*, or *The Old Age Assistance Act*, or R.S.O. 1960,
cc. 35, 107,
267
 - (iii) who is a beneficiary or recipient under *The Mothers' and Dependent Children's Allowances Act*, or R.S.O. 1960,
c. 247
 - (iv) who is receiving a maintenance allowance under *The Rehabilitation Services Act*, R.S.O. 1960,
c. 350
 and includes such other classes of persons as the regulations prescribe;
- (f) "regional welfare administrator" means a person employed as such by the Department of Public Welfare or designated as such by the Minister;
- (g) "regulations" means the regulations made under this Act;
- (h) "supplementary aid" means the assistance that may be paid to a recipient of a governmental benefit;
- (i) "unemployable person" means a person who is certified by a duly qualified medical practitioner as

being unable to engage in remunerative employment by reason of physical or mental disability;

- (j) "unemployed person" means a person who is able to engage in remunerative employment and who is not so engaged at the time he makes application for assistance. 1958, c. 33, s. 1; 1960, c. 42, s. 1.

Ontario-
Canada
agreements

2. The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada or any agency thereof in respect of any or all of the following matters:

1956, c. 26
(Can.)

1. Respecting the payment by Canada to the Province in accordance with the *Unemployment Assistance Act* (Canada) and its regulations of any portion of the aggregate of the cost to the Province and the cost to municipalities in the Province of providing assistance to the classes of persons and under the conditions specified in the agreement.

R.S.O. 1960,
c. 183

2. Respecting the payment by Canada to the Province of contributions to the cost of providing assistance to Indians within the meaning of *The Indian Welfare Services Act* under the conditions specified in the agreement.
3. Respecting the payment by Canada to the Province of contributions to the cost of providing assistance and other things to immigrants to the Province under the conditions specified in the agreement.
4. Respecting the payment by Canada to the Province or by the Province to Canada of contributions to the cost of public works measures undertaken by the Province or by Canada to relieve unemployment in the Province or in any municipality in the Province. 1958, c. 33, s. 2.

Ontario-
municipal
agreements

3. The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with any municipality and any municipality may make agreements with the Minister respecting the payment by the Province to the municipality or by the municipality to the Province of contributions to the cost of public works measures undertaken by the municipality or by the Province to relieve unemployment in the municipality. 1958, c. 33, s. 3.

Provincial
adminis-
tration

4.—(1) The Director shall exercise general supervision over the administration of this Act and the regulations and shall advise municipal welfare administrators, regional welfare administrators and others as to the manner in which their duties under this Act are to be performed.

(2) In territory without municipal organization, the regional welfare administrator shall receive applications for assistance and shall determine the eligibility of each applicant for assistance, and, where the applicant is eligible, shall determine the amount thereof and direct payment accordingly. 1958, c. 33, s. 4.

5.—(1) The council of a city, town, village or township may appoint a municipal welfare administrator. 1958, c. 33, s. 5 (1); 1959, c. 41, s. 1.

(2) The municipal welfare administrator shall receive applications for assistance and shall determine the eligibility of each applicant for assistance, and, where the applicant is eligible, shall determine the amount thereof and direct payment accordingly.

(3) Instead of the local municipalities that are within a county for municipal purposes administering assistance independently of one another, the council of the county may, with the approval of the Minister, appoint a municipal welfare administrator to administer assistance in all such local municipalities, except that any such local municipality that has a population of more than 5,000 according to its last revised assessment roll may, by agreement with the county and with the approval of the Minister, appoint a municipal welfare administrator to administer assistance in that local municipality independently of the county. 1958, c. 33, s. 5 (2, 3).

6. The Director, every municipal welfare administrator, every regional welfare administrator and every relief investigator is, in the performance of his duties under this Act, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1958, c. 33, s. 6.

7.—(1) The Province shall provide assistance to the persons who reside in territory without municipal organization and who are eligible for such assistance.

(2) A municipality shall provide assistance to the persons who reside in the municipality and who are eligible for such assistance. 1958, c. 33, s. 7.

8. A municipality or the Province may provide assistance by way of supplementary aid to or on behalf of recipients of governmental benefits. 1958, c. 33, s. 8; 1960, c. 42, s. 2.

9. The Lieutenant Governor in Council may make regulations,

(a) prescribing classes of assistance and the items to be

included in any such class and the manner of computing the amount thereof;

- (b) prescribing classes of persons who are eligible for assistance and fixing standards of eligibility;
- (c) defining residence for the purposes of establishing eligibility for assistance, liability to pay assistance, a right to a contribution to the cost of assistance or a right to reimbursement of the whole or any part of the cost of assistance, or for any other purposes of this Act and prescribing the circumstances in which any such definition is applicable;
- (d) supplementing the liabilities mentioned in section 7 by prescribing circumstances under which there is liability to pay assistance, a right to a contribution or a right to reimbursement and providing for the same and prescribing the maximum amounts or percentages thereof;
- (e) providing for the recovery by the Province from a municipality of any amounts of assistance paid by the Province for which the municipality is liable or for the recovery by the Province or a municipality from a recipient of assistance or from his estate of amounts of assistance paid by the Province or municipality, and prescribing the circumstances and manner in which any such recovery may be made;
- (f) adding to the classes of persons who are recipients of governmental benefits; 1958, c. 33, s. 9, cls. (a-f).
- (g) providing for the payment of supplementary aid to recipients of governmental benefits, prescribing the circumstances under which and by whom it is payable, and providing for contributions to or reimbursement of amounts expended therefor and prescribing the maximum amounts or percentages thereof; 1958, c. 33, s. 9, cl. (g); 1960, c. 42, s. 3.
- (h) prescribing the amounts of money that may be paid by the Province in respect of the burial of indigent persons who were residing in territory without municipal organization;
- (i) governing the manner of making application for assistance;
- (j) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before assistance is paid;

- (k) prescribing the times and manner of payment of assistance;
- (l) prescribing additional powers and duties of the Director, regional welfare administrators and municipal welfare administrators;
- (m) prescribing the records to be kept and the claims and returns to be made to the Minister by municipalities and prescribing the times within which and the manner in which such claims or returns shall be made;
- (n) providing for the whole or part of the cost of providing medical and dental services to recipients of assistance and their dependants or any class thereof;
- (o) defining expressions for the purposes of the regulations;
- (p) prescribing forms and providing for their use;
- (q) respecting any matter deemed necessary or advisable to carry out the intent and purpose of this Act. 1958, c. 33, s. 9, cls. (h-q).

10.—(1) In this section,

Interpretation

- (a) "band", "council of a band", "Indian", "member of a band" and "reserve" have the same meaning as in the *Indian Act* (Canada);
- (b) "welfare administrator for a band" means a person appointed as such for the purposes of this Act.

R.S.C. 1952,
c. 149

(2) The council of a band that is approved for the purposes of this Act may, with the approval of the Minister, appoint a member of the band as the welfare administrator for the band.

Appointment of welfare administrators for Indian bands

(3) The provisions of this Act that apply to a municipal welfare administrator apply *mutatis mutandis* to the welfare administrator for a band.

Provisions applicable

(4) The council of a band that is approved for the purposes of this Act shall provide assistance to the members thereof who reside on the reserve of the band and who are eligible for assistance, and may provide assistance to other persons who reside on the reserve and who are eligible for assistance if the council of the band approves the provision of assistance to such persons. 1959, c. 41, s. 2, *part*.

Duty to provide assistance

(5) The council of a band that is approved for the purposes of this Act may provide assistance by way of supplementary aid to or on behalf of recipients of governmental benefits who

Supplementary aid

reside on the reserve of the band. 1959, c. 41, s. 2, *part*; 1960, c. 42, s. 4.

Regulations^a (6) The Lieutenant Governor in Council may make regulations,

(a) providing for the recovery by the Province from the council of a band of any amounts of assistance paid by the Province for which the council of the band is liable or for recovery by the council of a band from a recipient of assistance paid by the council of the band, and prescribing the circumstances and manner in which any such recovery may be made;

(b) specifying bands that are approved for the purposes of this Act. 1959, c. 41, s. 2, *part*.

Provincial
cost

11. The Provincial cost of any public works measure undertaken under any agreement under section 2 and the expenses of the administration of this Act are payable out of the moneys appropriated therefor by the Legislature. 1958, c. 33, s. 10, *amended*.

CHAPTER 165

The Gold Clauses Act

1. Every obligation heretofore or hereafter incurred, and whether it is due, accruing due or past due, that gives or purports to give the obligee a right to require payment in gold or in a particular kind or standard of coin or currency, or in an amount of money of Canada or elsewhere measured in gold or in a particular kind or standard of coin or currency is discharged upon payment, dollar for dollar, in any coin or currency, that at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. R.S.O. 1950, c. 160, s. 1.

2. Notwithstanding that any obligation heretofore or hereafter incurred, whether it is due, accruing due or past due, gives or purports to give the obligee the right to require payment in gold or in a particular kind or standard of coin or currency, or in an amount of money of Canada or elsewhere measured in gold or in a particular kind or standard of coin or currency, no action shall be brought or maintained to enforce such obligation or to enforce any judgment obtained outside Ontario based on any such obligation, except to the amount of the face value of such obligation, dollar for dollar, in any coin or currency that at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. R.S.O. 1950, c. 160, s. 2.

3. This Act applies to all obligations governed by the law of Ontario, including obligations of the Crown. R.S.O. 1950, c. 160, s. 3.

Discharge
of obliga-
tions

No action
to be
brought

Scope of
Act

CHAPTER 166

The Government Contracts Hours and Wages Act**1. In this Act,**Interpre-
tation

- (a) "fair wages" means such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed for the character or class of work in which such workmen are respectively engaged, but shall in all cases be such wages as are fair and reasonable;
- (b) "Government of Ontario" includes every department thereof and every commission or board created by any Act of the Legislature;
- (c) "Minister" means the Minister of Labour or such other member of the Executive Council as is for the time being charged with the administration of this Act;
- (d) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 161, s. 1.

2.—(1) Every contract entered into with the Government of Ontario for the construction, remodelling, renewal, repair or demolition of any building or work is subject to the following conditions respecting wages and hours:

Government
contracts
for work
subject to
certain
conditions

- 1. All persons in the employ of the contractor, sub-contractor or any other person doing or contracting to do the whole or any part of the work contemplated by the contract shall during the continuance of the work be paid fair wages.
- 2. The working hours of persons while so employed shall not exceed eight hours per day or forty-four hours per week, except in such special cases as the Lieutenant Governor in Council otherwise provides, or except in such cases of emergency as are approved by the Minister.

(2) This section does not apply to the purchase of materials, supplies or equipment for use in the work contemplated under any contract of sale and purchase. R.S.O. 1950, c. 161, s. 2.

Exception

Wages and
hours where
Government
aid granted

3.—(1) Where a grant or payment of any public moneys of Ontario is authorized or made by way of contribution, subsidy, loan, advance or guarantee for or in aid of the construction, remodelling, renewal, repair or demolition of any building or work, whether the grant or payment is to be received by any municipal or other body or person whatever, the wages and hours of all workmen employed on the work shall be those set forth in subsection 1 of section 2.

Exception

(2) This section does not apply to the purchase of materials, supplies or equipment for use in the work contemplated under any contract of sale and purchase. R.S.O. 1950, c. 161, s. 3.

Offences.

4.—(1) Every contractor, subcontractor, municipal or other body and every person who is responsible, directly or indirectly, for the payment of wages, who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

Disposition
of fines

(2) The fines provided by this Act are payable to the Treasurer of Ontario. R.S.O. 1950, c. 161, s. 4.

Regulations

5. The Lieutenant Governor in Council may make regulations providing for,

- (a) the method of determining what are fair wages and the preparation and use of schedules of rates relating thereto;
- (b) rates of wages for overtime;
- (c) classification of employment or work;
- (d) the persons or classes of persons who may be employed in the performance of any work mentioned in this Act;
- (e) the publication and posting of wage schedules;
- (f) the payment of wages to employees in case of default by the contractor or other party charged with the payment and recovery thereof from the contractor or other party;
- (g) the keeping of proper books and records and the examination and inspection thereof;
- (h) the furnishing of such information as is required by the Minister to ensure compliance with this Act;
- (i) any matter necessary or advisable to carry out effectively the intent and purpose of this Act and the regulations. R.S.O. 1950, c. 161, s. 5.

6. This Act and the regulations shall be read and construed subject to *The Industrial Standards Act*, *The Minimum Wage Act* and *The Public and Other Works Wages Act* and any regulations and schedules made thereundre. R.S.O. 1950, c. 161, s. 6.

Act to be subject to provisions of R.S.O. 1960, cc. 186, 240, 328

CHAPTER 167

The Grain Elevator Storage Act

1. In this Act,

Interpre-
tation

- (a) "chief inspector" means the chief inspector appointed under this Act;
- (b) "farm produce" means beans, cereal grains, corn or grass seeds produced in Ontario;
- (c) "grain elevator" means any premises on which farm produce is stored;
- (d) "grain elevator operator" means a person who receives or offers to receive farm produce for storage;
- (e) "grain storage receipt" means a receipt in the form prescribed by the regulations and issued by a grain elevator operator in respect of farm produce in storage;
- (f) "regulations" means the regulations made under this Act;
- (g) "stored", when used with respect to farm produce, means delivered to a grain elevator upon terms that the ownership is to remain in the deliverer, and "storage" has a corresponding meaning;
- (h) "weigh-ticket" means a receipt issued by a grain elevator operator to a producer in the form prescribed by the regulations. 1958, c. 34, s. 1.

2.—(1) Subject to an agreement in writing to the contrary, where farm produce is delivered to an elevator and a grain storage receipt is issued, the delivery of the farm produce shall be deemed to be for storage.

Delivery
for
storage

(2) A grain elevator operator shall not issue a grain storage receipt for grain delivered upon terms other than for storage unless he marks on the receipt in bold print that the receipt is not a grain storage receipt under this Act. 1958, c. 34, s. 2.

Receipt
where grain
not for
storage

3. A contract for the sale of farm produce to the operator of the grain elevator in which it is stored is not enforceable by action unless the contract is written on the grain storage

Contract for
sale to be
written

receipt issued for the farm produce and signed by the parties. 1958, c. 34, s. 3.

Storage
charges

4. Unless it is agreed in writing to the contrary, farm produce stored in a grain elevator is not subject to any lien, charge or set-off other than for storage charges in respect of the farm produce. 1958, c. 34, s. 4.

R.S.O. 1960,
c. 129 s. 2,
not to apply

5. Section 2 of *The Factors Act* does not apply to farm produce in possession of a grain elevator operator for storage, or to a document of title thereto. 1958, c. 34, s. 5.

Appoint-
ment of
chief
inspector
and
inspectors

6. The Lieutenant Governor in Council may appoint a chief inspector to administer and enforce this Act, and may appoint one or more inspectors who shall carry out such duties as are assigned to them by this Act or the regulations or the chief inspector. 1958, c. 34, s. 6.

Grain
elevator
operator's
licence

7.—(1) No person shall receive or offer to receive farm produce for storage at a grain elevator without a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator.

Conditions
of licence

(2) The chief inspector may refuse to grant a licence where the applicant is not qualified by experience, financial responsibility or equipment to engage properly in the business of a grain elevator operator.

Suspension,
revocation
or non-
renewal
of licence

(3) The chief inspector may suspend, revoke or refuse to renew a licence for failure to carry out the provisions of this Act or the regulations, or for failure to provide promptly and accurately a grain storage receipt to a producer from whom the grain elevator operator received farm produce for storage. 1958, c. 34, s. 7.

Duties of
chief
inspector

8. Where the chief inspector suspends, revokes or fails to renew the licence of a grain elevator operator, the chief inspector may perform such services and do such acts as he deems necessary to protect the property of the producers of farm produce received for storage at the grain elevator. 1958, c. 34, s. 8.

Grain
storage
receipt

9.—(1) Upon delivery of farm produce for storage, the grain elevator operator shall issue a grain storage receipt.

Not more
than one
receipt

(2) No person shall issue or receive more than one grain storage receipt in respect of the same farm produce. 1958, c. 34, s. 9.

10.—(1) Where a producer delivers for storage farm produce in more than one delivery, the grain elevator operator shall, for each delivery, issue to the producer a weigh-ticket.

(2) Where a grain elevator operator issues weigh-tickets under subsection 1, he shall issue a grain storage receipt immediately after the last delivery of the farm produce and upon the surrender of the weigh-tickets, but in no case later than ten days from the date of issue of the weigh-ticket first issued. 1958, c. 34, s. 10.

11.—(1) Every grain elevator operator shall keep copies of all weigh-tickets issued to each producer in a separate account kept for that purpose only, until he issues grain storage receipts for the full amount of the weigh-tickets.

(2) No person shall issue a grain storage receipt or weigh-ticket without making and keeping a complete record of the matters recorded thereon. 1958, c. 34, s. 11.

12.—(1) No person shall sign a grain storage receipt on behalf of a grain elevator operator except a person designated by him.

(2) A grain elevator operator shall report promptly to the chief inspector the name and address of any person designated by him to sign receipts. 1958, c. 34, s. 12.

13.—(1) Every licensed grain elevator operator shall insure with an insurer licensed under *The Insurance Act* all farm produce stored by him for which grain storage receipts and weigh-tickets have been issued, against loss or damage by fire, lightning, explosion occurring on the grain elevator premises, windstorm and hail, to the full market value of the farm produce in storage.

(2) Every contract of insurance in which the coverage referred to in subsection 1 is included shall provide that payment thereunder shall not be made without the consent of the chief inspector. 1958, c. 34, s. 13.

14. Every grain elevator operator shall furnish to the chief inspector in such form and at such times as he requires a statement showing the full market value of farm produce in storage at his grain elevator and the particulars of insurance under section 13. 1958, c. 34, s. 14.

15.—(1) Subject to subsection 2, no grain elevator operator shall receive for storage any amount of farm produce greater than the storage capacity of his grain elevator.

Contract for
storage in
another
elevator

(2) A grain elevator operator may, under *bona fide* contract for storage facilities at the grain elevators of other grain elevator operators licensed under this Act or any Act of the Parliament of Canada, or other person on premises acceptable to the chief inspector, store therein farm produce received for storage at his grain elevator. 1958, c. 34, s. 15.

Farm
produce in
storage to
correspond
to receipts

16. Every grain elevator operator shall at all times have in his grain elevator or in other storage under subsection 2 of section 15 such amounts of farm produce of each kind and grade as will at least equal the total amounts of outstanding grain storage receipts and weigh-tickets issued by him. 1958, c. 34, s. 16.

Inspection

17.—(1) The chief inspector or an inspector may at any time enter any grain elevator and inspect the grain stored and the books and records pertaining thereto.

Idem

(2) Every person, when requested so to do by the chief inspector or an inspector, shall permit inspection of any premises operated as a grain elevator and shall produce and permit inspection of books and records and supply extracts respecting farm produce in storage.

Idem

(3) No person shall hinder or obstruct the chief inspector or an inspector in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information. 1958, c. 34, s. 17.

Offence

18. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 or to a term of imprisonment of not more than one year for any subsequent offence. 1958, c. 34, s. 18.

Regulations

19. The Lieutenant Governor in Council may make regulations,

- (a) providing for the licensing of grain elevator operators;
 - (b) prescribing the duties of the chief inspector and inspectors;
 - (c) prescribing forms and providing for their use;
 - (d) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. 1958, c. 34, s. 19.
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CHAPTER 168

The Guarantee Companies Securities Act

- 1.** In this Act, "guarantee company" means a corporation approved by the Lieutenant Governor in Council and empowered to grant guarantees, bonds, policies or contracts for the integrity and fidelity of employed persons, or in respect of any legal proceedings or for other like purposes. R.S.O. 1950, c. 162, s. 1. Interpretation
- 2.** Where a judge, functionary, officer or person is entitled or required to take security by bond with sureties, he may in lieu thereof take the bond, policy or guarantee contract of a guarantee company of the like nature and effect. R.S.O. 1950, c. 162, s. 2. Bonds of guarantee company may be taken by officers and others
- 3.** Where a person is required to give security by bond with sureties, he may in lieu thereof furnish the bond, policy or guarantee contract of a guarantee company of the like nature and effect. R.S.O. 1950, c. 162, s. 3. Persons may give bond of guarantee company
- 4.** The guarantee company shall not be bound or required to justify. R.S.O. 1950, c. 162, s. 4. Justification not required
- 5.** The bond, policy or guarantee contract of a guarantee company may be taken instead of or in substitution for any existing security if the judge, functionary, officer or person mentioned in section 2 so directs. R.S.O. 1950, c. 162, s. 5. Bond of company may be substituted for other bonds
- 6.** The interim receipt of a guarantee company may be accepted in lieu of a bond, policy or guarantee contract, but the latter shall be furnished within one month. R.S.O. 1950, c. 162, s. 6. Interim receipt in lieu of bond
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CHAPTER 169

The Habeas Corpus Act

1.—(1) Where a person, other than a person imprisoned for debt, or by process in any action, or by the judgment, conviction or order of the Supreme Court, court of general sessions of the peace or other court of record is confined or restrained of his liberty, a judge of the Supreme Court, upon complaint made by or on behalf of the person so confined or restrained, if it appears by affidavit that there is reasonable and probable ground for the complaint, shall award a writ of *habeas corpus ad subjiciendum* directed to the person in whose custody or power the person so confined or restrained is, returnable immediately before the judge so awarding the writ, or before any judge of the Supreme Court or before the Court of Appeal.

In what cases *hab. corp. ad subjiciendum* may be awarded, and by whom

(2) Notice in writing of every application for a writ of *habeas corpus ad subjiciendum* shall be given to the Attorney General at least forty-eight hours before the making of the application and the Attorney General is entitled as of right to be heard either in person or by counsel upon the application.

Notice of application for writ of *habeas corpus*

(3) Instead of awarding the writ, the judge before whom the application is made may direct that the motion for the writ be adjourned to be heard before the Court of Appeal.

Order adjourning motion for writ

2. The writ may be served either personally by actual delivery thereof to the person to whom it is directed or by leaving it with his servant or agent at the place where the person is so confined or restrained. R.S.O. 1950, c. 163, s. 2.

Service of writ

3. If the person to whom the writ is directed wilfully neglects or refuses to make a return or pay obedience thereto, he shall be deemed guilty of contempt of court, and the court or judge, upon proof by affidavit of such wilful neglect, refusal or disobedience, may issue a warrant for apprehending and bringing him before the court or judge to the end that he may be bound to Her Majesty with two sufficient sureties in such sum as in the warrant is expressed, conditioned that he will appear on the day named in the warrant to answer the matter of the contempt. R.S.O. 1950, c. 163, s. 3.

Disobedience of writ

Committal

4. In case of neglect or refusal to become bound as aforesaid, the court or judge may commit such person to the common jail of the county wherein he resides or may be found, there to remain until he becomes bound as aforesaid or is discharged by order of the court or a judge, and, if he becomes bound, the recognizance shall be returned and filed and continues in force until the matter of the contempt has been heard and determined, unless sooner ordered by the court or judge to be discharged. R.S.O. 1950, c. 163, s. 4.

Issue of writ of certiorari

5. Where a writ of *habeas corpus* is issued under the authority of this Act or otherwise, the court or judge may direct the issue of a writ of *certiorari* directed to the person by whom or by whose authority any person is confined or restrained of his liberty, or other person having his custody or control, requiring him to certify and return to the court or judge as by the writ may be provided, all the evidence, depositions, conviction and all proceedings had or taken, touching or concerning such confinement or restraint of liberty. R.S.O. 1950, c. 163, s. 5.

Procedure on return of writ

6. When upon a return to a writ of *habeas corpus* it is alleged that the person is detained by reason of a conviction or order other than a conviction or order of the Supreme Court or other court of record upon the return of the writ of *certiorari*, it is the duty of the court or judge to examine and consider the proceedings had and taken to ascertain if the proceedings show that the person restrained has been convicted of any offence against the law and that there is any evidence to sustain the conviction, or that upon the evidence the person accused is guilty of an offence against the law and that the conviction, though irregular, ought to be amended or drawn so as to duly describe the offence of which the person accused is guilty, and in such cases to remand the person detained to custody but otherwise to order his discharge. R.S.O. 1950, c. 163, s. 6.

Proceedings for inquiring into the truth of the matters alleged in the return

7. Although the return to a writ of *habeas corpus* is good and sufficient in law, the court or judge before whom the writ is returnable may examine into the truth of the facts set forth in the return, by affidavit or other evidence, and may order and determine touching the discharging, bailing or remanding the person. R.S.O. 1950, c. 163, s. 7.

Appeal from remand to custody

8.—(1) Where a person confined or restrained of his liberty is brought before a judge upon a writ of *habeas corpus* and is remanded into custody upon the original order or warrant of commitment or by virtue of any warrant, order or rule of such judge, such person may appeal from the decision or

judgment of the judge to the Court of Appeal, and thereupon the writ of *habeas corpus*, the return thereto, and the affidavits, depositions, evidence, conviction and other proceedings shall be certified by the proper officer to the Court of Appeal.

(2) The Court of Appeal shall thereupon hear and determine the appeal without formal pleadings and, if the court determines that the confinement or restraint is illegal, shall so certify to the person having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly. R.S.O. 1950, c. 163, s. 8. ^{Court may order discharge}

9. This Act extends to all writs of *habeas corpus* awarded in pursuance of the Act passed in England in the 31st year of the reign of King Charles the Second, commonly called *The Habeas Corpus Act*, or otherwise in as ample and beneficial a manner as if such writs and the cases arising thereon had been specially named and provided for in this Act. R.S.O. 1950, c. 163, s. 9. ^{Application of Act}

10. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make such rules of practice in reference to the proceedings on writs of *habeas corpus* as seem necessary or expedient. R.S.O. 1950, c. 163, s. 10. ^{Power to make rules}

CHAPTER 170

The Haliburton Act

1. Except where otherwise provided in this Act, the Provisional County of Haliburton and the corporation and council thereof have and possess respectively all the rights, powers, liabilities and incidents of a county, county corporation and county council, and, except where inconsistent with this Act, the law and the statutes applicable to counties, county corporations and county councils, and the members of such councils, apply. R.S.O. 1950, c. 164, s. 1.

Rights, liabilities and powers of the Provisional County corporation and council

2. No by-law for granting aid to a railway company is valid unless within three months from its passing it is approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 164, s. 2.

By-laws in aid of railways

3. The meetings of the council shall be held at the place in the county where the registry office is kept. R.S.O. 1950, c. 164, s. 3.

Meetings of council

4. For judicial purposes, including the holding of courts, the officers of such courts, judicial process and proceedings, and the selection of jurors, the Provisional County is united to and forms part of the County of Victoria. R.S.O. 1950, c. 164, s. 4.

County to form part of Victoria for judicial purposes

5. The justices of the peace appointed for the Provisional County are entitled to sit in the general sessions held for the County of Victoria. R.S.O. 1950, c. 164, s. 5.

Justices of the peace

6. Where an appeal lies from the decision of a justice or justices of the peace to the general sessions of the peace, the appeal in a case arising in the Provisional County lies to and may be heard and determined by the Court of General Sessions of the Peace for the County of Victoria. R.S.O. 1950, c. 164, s. 6.

Appeal from decisions of justices of the peace

7. All returns of convictions required by law to be made by a justice of the peace for the Provisional County shall be made to the clerk of the peace for the County of Victoria. R.S.O. 1950, c. 164, s. 7.

Returns of convictions

Erection of
jails

8. The Lieutenant Governor in Council may from time to time direct that one or more suitable jails or lock-ups shall be provided by the Minister of Public Works in the Provisional County out of any money appropriated for that purpose. R.S.O. 1950, c. 164, s. 8.

Jails in
Haliburton
to be
common
jails of
Haliburton
and Victoria

9. Every jail and lock-up erected under the authority of the Lieutenant Governor in Council is a common jail of the Provisional County and of the County of Victoria for the safe custody of persons charged with the commission, within the Provisional County, of crimes, or with the commission therein of offences against any statute of Ontario or against any municipal by-law, who may not have been finally committed for trial, and for the safe custody of such persons when finally committed for trial until removed to the common jail at Lindsay, and for the confinement of persons sentenced within the Provisional County for such crimes or offences for periods not exceeding one month, and for the confinement of persons so sentenced for periods exceeding one month until such persons can be conveniently removed to the common jail at Lindsay, or other lawful prison to which they are sentenced. R.S.O. 1950, c. 164, s. 9.

Power to
commit to
the jail at
Lindsay

10. Nothing in section 9 prevents any court or justice of the peace from directing the committal to the common jail at Lindsay, either for safe custody or for punishment, of any person whom it is considered expedient to commit thereto. R.S.O. 1950, c. 164, s. 10.

Appoint-
ment and
salary of
jailer

11. The Lieutenant Governor in Council may appoint the jailer, jail surgeon and other jail employees for the Provisional County, and fix their salaries which shall be paid by the Provisional County. R.S.O. 1950, c. 164, s. 11.

Contribu-
tion by
Haliburton
to expenses
of adminis-
tration of
justice

12.—(1) The Provisional County shall bear and pay to the corporation of the County of Victoria its just share or proportion of all charges and expenses from time to time incurred in erecting, building and repairing and maintaining, enlarging or improving the court house and common jail at Lindsay and of the proper lighting, cleansing and heating thereof, and of providing all necessary and proper accommodation, fuel, light, stationery and furniture for the jail and courts of justice, other than the division courts, and for the library of the law association of the county and of providing proper offices, together with fuel, light, stationery and furniture for officers connected with such courts, where the same are required to be provided by the county council, and all other charges relating to criminal justice, payable by the county. R.S.O. 1950, c. 164, s. 12 (1), *amended*.

(2) The provisions of *The Municipal Act* with respect to the determination of the compensation to be paid by the corporation of a city or separated town to the corporation of the county in which for judicial purposes the city or town is situate apply to the determination of the compensation payable under this section. R.S.O. 1950, c. 164, s. 12 (2).

Application
R.S.O. 1960,
c. 249

13.—(1) An appeal lies from the decision of the court of revision of any municipality in the Provisional County to the judge of the county court of the County of Victoria.

To whom
appeal lies

(2) The provisions of *The Assessment Act* with respect to appeals from the judge of the county court to the Ontario Municipal Board apply to the Provisional County. R.S.O. 1950, c. 164, s. 13.

Application
R.S.O. 1960,
c. 23

14. The registrar of deeds shall keep his office in a place to be named for that purpose in his commission, or at such other place as is appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 164, s. 14.

Registry
office

15.—(1) In addition to the powers conferred by *The Municipal Act*, the council of a township or village in the Provisional County may pass by-laws for,

Aid to grist
mills by
taking stock
or lending
money

- (a) granting aid to or for promoting the establishment of a grist mill in the township or village;
- (b) taking stock in any company incorporated for establishing a grist mill in the township or village; or
- (c) lending money to any such company.

(2) The aid to be granted, the stock to be taken and the money to be lent under subsection 1 shall not in all exceed one-half of the actual cost of such grist mill or in any case the sum of \$3,000.

Limit of aid

(3) Notwithstanding *The Municipal Act*, the vote in the affirmative of two-thirds of the electors actually voting upon any such by-law is necessary and sufficient to the carrying of the by-law.

Assent of
two-thirds
of rate-
payers
voting

(4) Not such by-law shall be passed for or in respect of the establishment of a grist mill in a location less than fifteen miles from a grist mill established in the Provisional County and in operation on the 13th day of April, 1897.

Restriction
upon power
to grant
bonus

(5) In case of a dispute as to the result of the vote on any by-law, the judge of the county court of the County of Victoria has the powers conferred by *The Municipal Act* upon the judge of a county court with respect to a scrutiny of the votes of electors upon a by-law.

Deciding
disputes as
to result
of vote
R.S.O. 1960
c. 249

Proceedings

(6) The petition to the judge may be by an elector or by the council, and the proceedings for obtaining the judge's decision shall be the same as nearly as may be as in the case of a scrutiny.

Represent-
tation of
council on
board of
directors

(7) The council of a municipality taking stock in a company under the authority of this section shall annually, at its first meeting for the year, elect from among its members a representative of such council to the board of directors of the company, and such representative is entitled to sit and vote at all meetings of the board and to vote at all meetings of shareholders in respect of the stock held by the municipality that he represents.

Application
of R.S.O.
1960, c. 249

(8) Except as otherwise provided in this Act, the provisions of *The Municipal Act* as to money by-laws and the obtaining of the assent of the electors thereto apply. R.S.O. 1950, c. 164, s. 15.

CHAPTER 171

The Highway Improvement Act**1. In this Act,**Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) "construction" includes re-construction;
- (d) "Department" means the Department of Highways;
- (e) "Deputy Minister" means the Deputy Minister of Highways;
- (f) "highway" means a common or public highway, or any part thereof, and includes a street, bridge and any other structure incidental thereto and any part thereof;
- (g) "land" includes an estate, term, easement, right or interest in, to, over or affecting land;
- (h) "maintenance" includes repair;
- (i) "Minister" means the Minister of Highways;
- (j) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (k) "regulations" means the regulations made under this Act;
- (l) "road" has the same meaning as highway;
- (m) "road authority" means a body having jurisdiction and control of a highway;
- (n) "roadway" means that part of a highway designed or intended for use by vehicular traffic. 1957, c. 43, s. 1.

PART I

THE KING'S HIGHWAY

Property
vested in
Crown

2.—(1) All property acquired under this Part is vested in the Crown and is under the jurisdiction and control of the Department.

Property
may be
sold, etc.

(2) Subject to subsection 2 of section 3, all property that is under the jurisdiction and control of the Department may be leased, sold or otherwise disposed of by the Minister. 1957, c. 43, s. 2.

Crown
Land
Plans

3.—(1) Where the Minister desires to acquire for the purposes of this Part jurisdiction and control over Crown lands not under the jurisdiction and control of the Department, he shall deposit with the Minister of Lands and Forests and register in the proper registry or land titles office a plan and description of the land to be known as and marked "Crown Land Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the land is under the jurisdiction and control of the Department for the purposes of this Part.

Crown
land no
longer
required

(2) Where the jurisdiction and control of land or a part thereof acquired under subsection 1 is no longer required for the purposes of this Part, the Minister may, with the approval of the Minister of Lands and Forests, by a writing signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, deposited with the Minister of Lands and Forests and registered in the proper registry or land titles office, declare that the jurisdiction and control of the land or part thereof is no longer required and thereupon such land or part thereof is under the jurisdiction and control of the Department of Lands and Forests. 1957, c. 43, s. 3.

Power to
enter on
land, etc.

4. The Minister or any person authorized by him may, without the consent of the owner,

- (a) enter upon and use any land;
- (b) alter in any manner any natural or artificial feature of any land;
- (c) construct and use roads on, to or from any land; or
- (d) place upon or remove from any land any substance or structure,

for any purpose of this Part. 1957, c. 43, s. 4.

5. The Lieutenant Governor in Council may designate a highway or proposed highway as the King's Highway. 1957, c. 43, s. 5. Designation of the King's Highway

6.—(1) Where the Minister desires to acquire an existing highway, he shall register in the proper registry or land titles office a plan and description of the highway to be known as and marked "Assumption Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the highway vests in the Crown, and the Minister forthwith shall give notice in writing of such vesting to any municipality concerned. Procedure for acquiring a highway
Assumption Plan

(2) The Minister may, before registering an Assumption Plan, register in the proper registry or land titles office a preliminary plan of the highway to be known as and marked "Preliminary Assumption Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and such Preliminary Assumption Plan when registered has the same force and effect as an Assumption Plan registered under subsection 1, but an Assumption Plan of the highway shall thereafter be registered under subsection 1. 1957, c. 43, s. 6. Preliminary Assumption Plan

7.—(1) The Minister may, in the name of Her Majesty, acquire by purchase, lease or otherwise or may, without the consent of the owner, expropriate any land for the purposes of this Part or for making compensation in whole or in part to any person under this Part. Land may be acquired or expropriated

(2) Where the Minister desires to expropriate land under this section, he shall register in the proper registry or land titles office a plan and description of the land to be known as and marked "Land Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the land vests in the Crown. Procedure for expropriation of land
Land Plan

(3) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan and description so registered shall indicate, by appropriate words thereon, that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and by the registration in such case the land for such limited time or such limited estate, right or interest therein vests in the Crown. Where land temporarily required, etc.

Power to
take whole
lot when
part only
required

(4) Where the Minister is of opinion that he can obtain the whole of a lot or parcel of land at a more reasonable price or to greater advantage than by acquiring a part thereof only, he may expropriate the whole of the lot or parcel and also any right of way thereto. 1957, c. 43, s. 7.

Correction
of errors

8. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may register in the proper registry or land titles office a plan or description replacing or amending such original plan or description and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as and is in substitution for the original plan or description to the extent that such plan or description is replaced or amended thereby. 1957, c. 43, s. 8.

Verification
of plans and
descriptions

9. Where a plan and description purporting to be signed by any of the persons authorized so to do is registered under this Part, it shall be deemed to have been registered by the direction and authority of the Minister and as indicating that in the opinion of the Minister the highway described or the land described is necessary for the purposes of this Part, and the plan and description shall not be called in question except by the Minister or by a person authorized by the Minister. 1957, c. 43, s. 9.

Notice to
be given
to owner

10.—(1) Where any of the powers conferred by section 4 or 7 have been exercised, the Minister shall, within sixty days thereafter, give notice to the owner,

- (a) if the owner is known and his residence is known, by serving upon or by mailing by registered letter addressed to him at his last known place of residence a notice describing the land affected and the power exercised and stating that every person having any claim to compensation must file the claim in the office of the Minister within six months after the date of the notice, or, in the case of land injuriously affected, within six months after the injury complained of, or, in the case of a continuing injury, within one year from the time when the injury began or became known to him; or
- (b) if the owner is unknown or his place of residence is unknown, by the publication of a similar notice once a week for at least three weeks in a newspaper having

general circulation in the county or district in which the land affected is situate.

(2) Where notice has been given under subsection 1, a claim for compensation shall be made within the time limited by the notice. Where notice given

(3) Where no notice has been given under subsection 1, a claim for compensation may be made at any time by giving notice thereof to the Minister, and the provisions of this Part with respect to the fixing, payment and application of compensation apply thereto. 1957, c. 43, s. 10. Where no notice given

11.—(1) The Minister shall make due compensation to the owner of land for any damage necessarily resulting from the exercise of any of the powers conferred by section 4 or 7, beyond any advantage that the owner may derive from the contemplated work. Right to compensation

(2) Every such claim for compensation not agreed upon by the Minister and the claimant shall be determined by the Board and not otherwise, and *The Ontario Municipal Board Act*, except section 95, applies so far as is practicable to every such claim that is referred to the Board. Determination of compensation R.S.O. 1960, c. 274

(3) The Minister or the claimant may, with leave of the Court of Appeal, appeal to that court from any determination or order of the Board as to compensation under this Part. Appeal to Court of Appeal

(4) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Board and the rules of court as to court vacations apply. Time for appeal

(5) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the court deems just. Terms

(6) Subject to subsection 4, the practice and procedure as to the appeal and incidental thereto are the same *mutatis mutandis* as upon an appeal from a county court. 1957, c. 43, s. 11. Procedure

12.—(1) The compensation agreed upon or determined under section 11 stands in the stead of the land concerned, and any claim to or encumbrance on the land shall, as respects the Crown, be converted into a claim to or upon the compensation and no longer affects the land. Character of compensation

(2) If the compensation agreed upon or determined under section 11 does not exceed \$200, it may be paid to the person who may convey the land or agree as to the compensation without the giving of notice to any other person, saving always the rights of any other person to the compensation as against the person receiving it. 1957, c. 43, s. 12. Payment of compensation under \$200

Right of
Crown to
abandon
land expro-
priated

13.—(1) Where at any time before compensation for land expropriated has been agreed upon or determined under section 11 the land or a part thereof is found to be unnecessary for the purposes of this Part or if it is found that a more limited estate or interest therein only is required, the Minister may, by a writing signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and registered in the proper registry or land titles office, declare that the land or such part thereof is not required and is abandoned by the Crown or that it is intended to retain only such limited estate or interest as is mentioned in the writing, and thereupon,

- (a) the land declared to be abandoned reverts in the person from whom it was expropriated and those entitled to claim under him; or
- (b) in the event of a limited estate or interest being retained by the Crown, the land so reverts subject to such limited estate or interest.

Effect upon
compen-
sation

(2) Where part only of the land or all of it except the limited estate or interest therein is abandoned, the fact of the abandonment and the damage, if any, sustained in consequence of that which is abandoned having been expropriated and all the other circumstances of the case shall be taken into account in determining the amount to be paid to a person claiming compensation.

Damages
where
abandon-
ment
complete

(3) Where the whole of the land is abandoned, the person from whom it was expropriated is entitled to all damages sustained and all costs incurred by him in consequence of the expropriation and abandonment, and the amount of the damages shall be determined in accordance with subsections 2 to 6 of section 11. 1957, c. 43, s. 13.

Payment
into court

14.—(1) In any case in which the Minister deems it advisable, he may, without an order, pay the compensation or damages into the office of the Accountant of the Supreme Court with interest thereon at 5 per cent for six months.

Payment
out of
court

(2) Upon an application for payment out of court of compensation or damages paid into court under subsection 1, a judge of the Supreme Court may direct that such notice of the application be given by publication or otherwise as he deems proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation or damages and as to costs as he deems just.

(3) If an order is obtained under subsection 2 in less than six months after the payment of the compensation or damages into court, the judge may direct a proportionate part of the interest to be returned to the Minister. Adjustment of interest

(4) Where unborn issue or an unascertained person or class are interested in the compensation or damages, the judge may appoint such person as he deems proper to represent or act for them and any order made is binding on them. Where unborn issue, etc., interested
1957, c. 43, s. 14.

15. Every person who is claiming compensation or damages under this Part shall, upon demand made therefor by the Minister or any person authorized by him, furnish to the Minister a true statement showing the particulars of his interest in the land concerned and of the claim made by him. Minister may require particulars
1957, c. 43, s. 15.

16. Where an injury to land alleged to be injuriously affected by the exercise of any of the powers mentioned in section 4 or 7 may be removed in whole or in part by an alteration in or addition to a work to which this Part applies or by the construction of an additional work or by the abandonment of a part of the land expropriated or by the grant of any land or easement, and if the Crown, before the compensation is agreed upon or determined, undertakes to make such alteration or addition or to construct such additional work or to abandon such part of the land expropriated or to grant such land or easement, the compensation shall be determined having regard to such undertaking, and the Board shall declare that, in addition to any compensation determined, the claimant is entitled to have such alteration or addition made or such additional work constructed or such part of the land abandoned or such grant made to him. When reparation by Crown may be ordered
1957, c. 43, s. 16.

17.—(1) Interest at the rate of 5 per cent per annum may be allowed on the compensation or damages from the time when the land was expropriated, used or injuriously affected, but no person who has been offered in writing a sum equal to or greater than the compensation or damages shall be allowed interest thereon for any period after the date of the offer. Interest

(2) Where the Board is of the opinion that any delay in determining the compensation or damages is attributable in whole or in part to the person entitled to the compensation or damages or any part of it, the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per annum as appears just. Where interest may be withheld
1957, c. 43, s. 17.

Payment of
compensation,
damages
and costs

18. The Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any person any sum to which he is entitled under this Part as compensation, damages or costs. 1957, c. 43, s. 18.

Minister
may exercise
powers of
municipality

19. The Minister has, within the limits of any municipality in which the King's Highway is situate, all the powers that may be exercised by that municipality in respect of its highways. 1957, c. 43, s. 19.

Previous
rights and
agreements

20.—(1) The Minister has in respect of the King's Highway all the rights, powers, benefits and advantages conferred by by-law or agreement or otherwise upon the municipality that had jurisdiction and control of the highway before the highway was vested in the Crown, and the Crown may sue thereon in the same manner and to the same extent as the municipality might have done if the highway had not vested in the Crown.

Right of
Minister
to copies of
by-laws, etc.

(2) The Minister is entitled to a copy of any such by-law or agreement from the municipality and has the right to inquire into and ascertain full particulars concerning any such by-law or agreement. 1957, c. 43, s. 20.

Intersecting
highways

21. Where the King's Highway intersects a highway that is not the King's Highway, the continuation of the King's Highway to its full width across the highway so intersected is the King's Highway. 1957, c. 43, s. 21.

Connecting
links,
cities,
towns,
villages
and
counties

22.—(1) Where it is deemed by the Minister that a highway that is under the jurisdiction and control of a city, town or village or that is in a city, town or village and under the control of the county should be constructed as a connecting link between parts of the King's Highway or as an extension of the King's Highway, the Lieutenant Governor in Council may designate such highway as a connecting link or as an extension, as the case may be, to be constructed by the city, town, village or county, and the council of the city, town, village or county may pass by-laws for issuing and may issue debentures under *The Municipal Act*, payable in such period as the Minister approves but not exceeding twenty years from the time or times when the debentures are issued, for an amount sufficient to pay the municipality's share of the cost of the construction of the highway, but in the case of a city, town or village, it is not necessary for the council to obtain the assent of the electors to any such by-laws for the issue of debentures or to observe the formalities in relation thereto prescribed by *The Municipal Act*.

R.S.O. 1960,
c. 249

(2) In the case of a city, town or village, work required to be constructed under subsection 1 may be undertaken as a local improvement under *The Local Improvement Act*, and in that case the council may by by-law fix the proportion of the cost of the work to be borne by the municipality at large as the council deems proper.

Work as
local im-
provement
R.S.O. 1960,
c. 223

(3) The Minister and the council of a town, not being a separated town, or of a village may enter into an agreement for the construction and maintenance therein by the municipality or by the Department of a highway designated under subsection 1.

Agreement
for work,
towns and
villages

(4) The Minister and the council of a city or of a separated town may enter into an agreement for the construction therein by the municipality or by the Department of a highway designated under subsection 1.

Idem,
cities and
separated
towns

(5) The Minister and the council of a county may enter into an agreement, in the case of a highway in a town, not being a separated town, or a village, for the construction by the county or by the Department of a highway designated under subsection 1, and, in the case of a highway in a city or separated town, for the construction therein by the county or by the Department of a highway designated under subsection 1.

Idem,
counties

(6) An agreement under subsection 3, 4 or 5 may provide that a proportion of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village or county, as the case may be, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

Cost of
work

(a) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village having a population of not more than 2,500, a sum equal to the cost of construction of a roadway of a width of not less than 22 feet and not more than 48 feet and of the maintenance of a roadway of a width of not more than 48 feet;

(b) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village having a population of more than 2,500, a sum equal to the cost of construction of a roadway of a width of not less than 22 feet and not more than 48 feet and of the maintenance of a roadway having a width of not more than 48 feet; and

- (c) where the highway is in a city or separated town, a sum equal to 50 per cent of the cost of the construction of a roadway of a width of not less than 22 feet and not more than 48 feet.

Idem,
bridges
and
culverts

(7) Notwithstanding clause *b* of subsection 6, where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village having a population of more than 2,500 and the work consists of the construction or maintenance of a bridge or culvert, the agreement may provide that the proportion of the cost of the work that is to be paid out of the moneys appropriated therefor by the Legislature shall not exceed a sum equal to 80 per cent of the expenditure on such bridge or culvert that is properly chargeable to road improvement.

Idem,
additional
roadways
and widths

(8) An agreement under subsection 3, 4 or 5 may provide for the construction and maintenance or for the construction, as the case may be, of roadways or additional widths of roadways necessary to permit the proper interchange of traffic at intersections of the highway designated under subsection 1 with any other highway, and in that case the agreement may provide that a proportion of the cost of the construction and maintenance or construction, as the case may be, of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village or county, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

- (a) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village having a population of not more than 2,500, a sum equal to the cost of the construction and maintenance of the work;
- (b) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village having a population of more than 2,500, a sum equal to 75 per cent of the cost of the construction and maintenance of the work; and
- (c) where the highway is in a city or separated town, a sum equal to 50 per cent of the cost of the construction of the work.

Determina-
tion of
cost of
work

(9) For the purposes of an agreement entered into under subsection 3 or 4, the owner's share of the cost of local improvements shall not be included in the cost of the work without the consent of the Minister, nor may any other contribution received from any source be so included without the consent of the Minister.

(10) A highway does not, by reason of its having been constructed or maintained under this section, become the property of the Crown, but every such highway remains under the jurisdiction and control of the city, town, village or county, as the case may be. 1960, c. 44, s. 1.

Jurisdiction
and control
unchanged

23. The Minister and the council of a city, town or village may enter into an agreement for the preparation of a report, being a study of the development and improvement of the road system in the city, town or village in relation to the King's Highway, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report. 1960, c. 44, s. 2.

Highway
needs
study
report

24.—(1) The Minister and a municipality in which a part of the King's Highway is situate or an owner of land adjoining a part of the King's Highway may enter into an agreement for the construction of a roadway of a greater width or with different specifications than those for the remainder of the roadway, and the Department may construct the roadway accordingly.

Agreement
for con-
struction of
greater
width of
roadway

(2) The additional cost entailed under such an agreement to be borne by a municipality may be raised by a special tax or by the issue of debentures under *The Local Improvement Act* or *The Municipal Act*, and debentures issued under either Act shall be payable within a period not exceeding twenty years from the date of the debentures, but it is not necessary to obtain the assent of the electors to any by-law for the issue of such debentures under *The Municipal Act* or to observe any of the provisions of *The Local Improvement Act* with respect to the undertaking of works as local improvements. 1957, c. 43, s. 23.

Raising cost
of special
work
R.S.O. 1960,
co. 223, 249

25.—(1) Where the Minister or a person authorized by him deems it advisable to change the grade or make other alterations upon a highway intersecting or affording access to the King's Highway or giving access to private property, the cost of the changes so made shall be deemed to be part of the cost of the construction of the King's Highway.

Grading
approaches
to King's
Highway

(2) A municipality shall not open, close or divert any highway or road allowance entering or touching upon or giving access to the King's Highway without the consent of the Lieutenant Governor in Council. 1957, c. 43, s. 24.

Consent to
closing of
highway
connecting
with King's
Highway

26.—(1) The Minister or a person authorized by him may initiate and carry out proceedings under any Act for the purpose of procuring proper drainage for the King's Highway,

Drainage of
the King's
Highway,

and the Minister or such authorized person has authority to file notices and declarations as owner with the clerk of the local municipality or municipalities, or may receive notices where any other person is the initiating party, in accordance with the procedure prescribed in the Act, but no drainage works shall be constructed upon the King's Highway under any Act without the consent of the Minister or such authorized person.

Drainage
engineer
for De-
partment

(2) The Minister may from time to time designate one or more engineers of the Department to be the engineer or engineers authorized to carry out the provisions of any Act for the purpose of procuring proper drainage for the King's Highway or other property under the control of the Department, and every engineer so designated has for such purpose all the powers and shall perform all the duties on behalf of the Department required of an engineer appointed by a municipality. 1957, c. 43, s. 25.

Construc-
tion of works

27. The Minister may construct, maintain and operate such works as he deems necessary or expedient for the purposes of this Part and he and any person, including a municipality or local board thereof, may enter into agreements with respect to any such works. 1957, c. 43, s. 26.

Closing
highway
to traffic

28.—(1) While a work authorized by this Part is in progress, the Minister or a person authorized by him may close to traffic the King's Highway on which the work is being done for such time as the Minister or such person, as the case may be, deems necessary.

Alternative
routes
during work

(2) While the King's Highway is so closed to traffic, the Department shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, or the Minister and a municipality may enter into an agreement for that purpose or the Minister may make a grant to a municipality for that purpose, and any such expenditure or grant shall be apportioned as a part of the cost of the work in progress on the King's Highway by reason of which the alternative route is necessary.

Barricades

(3) While the King's Highway is so closed to traffic, the Minister or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and wherever an alternative route deviates from it, a barricade upon which a red light shall be exposed and kept burning continuously from sunset until sunrise and at such points shall put up a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.

(4) Every person using the King's Highway closed to traffic in accordance with this section does so at his own risk and the Crown is not liable for any damage sustained by a person using the King's Highway so closed to traffic. ^{No Crown liability}

(5) Every person who without lawful authority uses the King's Highway so closed to traffic while it is protected in accordance with subsection 3, or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and is also liable to the Crown for any damage or injury occasioned by such wrongful use, removal or defacement. 1957, c. 43, s. 27. ^{Offence}

29.—(1) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Department may be closed. ^{Closing}

(2) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Department shall revert to the road authority previously responsible for its maintenance or be transferred to the municipality within which it is situate, and it vests in and is under the jurisdiction and control of the road authority to which it so reverts or the municipality to which it is so transferred on and after the day named by the Lieutenant Governor in Council. ^{Reversion or transfer to municipality}

(3) Where the Lieutenant Governor in Council directs the reversion or transfer of a highway under subsection 2, any designation of the highway as the King's Highway or as a secondary highway is revoked on the day named by the Lieutenant Governor in Council under subsection 2. 1957, c. 43, s. 28. ^{Designation revoked}

30.—(1) The Department may plant trees upon the King's Highway and the cost thereof shall be part of the cost of its maintenance. ^{Planting trees}

(2) No person, including a municipality and a local board thereof, shall injure, destroy, cut or prune any tree within the limits of the King's Highway without first obtaining the consent in writing of the Minister or a person authorized by him. ^{Cutting, etc.}

(3) Every person who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 per tree and not more than \$100 per tree ^{Offence}

and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning.

Bonus for
planting
trees

(4) The Department may pay an amount not exceeding 75 cents for each elm, maple or other tree of a species approved by the Department planted on land adjoining the King's Highway in accordance with the conditions of a permit issued therefor by the Minister.

Bonus
chargeable

(5) The amounts paid under subsection 4 are chargeable to the moneys appropriated therefor by the Legislature and are payable upon a certificate of an engineer of the Department giving the name of the person entitled, the number of trees of each species planted and the amount to which the person is entitled and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form and were planted in accordance with the conditions of the permit granted therefor by the Minister.

Agreements
re fences

(6) The Minister may agree with the owner of property adjoining the King's Highway with respect to the moving, removal or construction of a wire or other type of fence along the King's Highway and may pay the owner therefor.

Removal of
obstructions

(7) Subject to the payment of such compensation as is agreed upon or as is determined in the manner provided by section 11, the Minister may direct the owner of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the King's Highway to remove it where in his opinion the safety or convenience of the travelling public so requires or where in his opinion it might cause the drifting or accumulation of snow or be injurious to the highway. 1957, c. 43, s. 29.

Interference
with King's
Highway

31.—(1) Notwithstanding anything in any general or special Act, no person, including a municipality and a local board thereof,

- (a) shall obstruct or deposit material on or take up or in any way interfere with the King's Highway; or
- (b) shall construct any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway, other than a controlled-access highway,

except in accordance with the conditions of a permit issued therefor by the Minister. 1958, c. 35, s. 2.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$1,000. 1957, c. 43, s. 30 (2).

32.—(1) The Minister may make regulations prohibiting or regulating the use of the King's Highway by any class of vehicles or animals and may impose penalties for contravention thereof, but no such regulation has any force or effect until approved by the Lieutenant Governor in Council after notice to any municipality affected thereby. ^{Regulating use}

(2) Every person who, being the owner or having the care, custody or control of horses, cattle, swine, sheep or goats, suffers or permits them or any of them to run at large within the limits of the King's Highway is guilty of an offence and on summary conviction is liable to a fine of not more than \$5 for every such animal found at large upon the highway, but this section does not create any civil liability on the part of the owner of the animal for damage caused to the property of others as a result of the animal running at large within the limits of the King's Highway. 1957, c. 43, s. 31. ^{Horses, cattle, etc., on highway}

33.—(1) The King's Highway shall be maintained and kept in repair by the Department and any municipality in which any part of the King's Highway is situate is relieved from any liability therefor, but this does not apply to any sidewalk or municipal undertaking or work constructed or in course of construction by a municipality or which a municipality may lawfully do or construct upon the highway, and the municipality is liable for want of repair of the sidewalk, municipal undertaking or work, whether the want of repair is the result of nonfeasance or misfeasance, in the same manner and to the same extent as in the case of any other like work constructed by the municipality. ^{Department to maintain and repair}

(2) In case of default by the Department to keep the King's Highway in repair, the Crown is liable for all damage sustained by any person by reason of the default, and the amount recoverable by a person by reason of the default may be agreed upon with the Minister before or after the commencement of an action for the recovery of damages. ^{Liability for damage in case of default}

(3) No action shall be brought against the Crown for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier adjacent to or in, along or upon the King's Highway or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or upon the King's Highway that is not on the roadway. ^{Insufficiency of fence, etc.}

(4) No action shall be brought for the recovery of the damages mentioned in subsection 2 unless notice in writing of the claim and of the injury complained of has been served ^{Notice of claim}

upon or sent by registered letter to the Minister within ten days after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not thereby prejudiced in its defence.

Limitation
of action

(5) No action shall be brought against the Crown for the recovery of damages occasioned by the default mentioned in subsection 2, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time the damage was sustained.

Judgment,
how payable

(6) All damages and costs recovered under this section and any amount payable as the result of an agreement in settlement of a claim for damages and costs that has been approved of in writing by counsel is payable in the same manner as in the case of a judgment recovered against the Crown in any other action.

Style of
action

(7) In an action against the Crown under this section, the defendant shall be described as "Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Highways for the Province of Ontario", and it is not necessary to proceed by petition of right or to procure the fiat of the Lieutenant Governor or the consent of the Attorney General before commencing the action, but every such action may be instituted and carried on and judgment may be given thereon in the same manner as in an action brought by a subject of Her Majesty against another subject.

Counter-
claims and
third party
proceedings

(8) Notwithstanding any general or special Act, in an action against the Crown under this section, the defendant may set up by way of counterclaim any right or claim, whether the right or claim sounds in damages or not, and may claim contribution or indemnity from or any other relief over against any person not a party to the action, and every such counterclaim and claim may be instituted and carried on and judgment may be given as if such counterclaim or claim was made by a subject of Her Majesty against another subject.

Action to
be tried
without
jury

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred.

Liability
not to
exceed
that of
municipality

(10) The liability imposed by this section does not extend to a case in which a municipality having jurisdiction and control over the highway would not have been liable for the damage sustained. 1957, c. 43, s. 32.

34.—(1) In this section, “centre point of an intersection” ^{Interpre-}
is the point where the centre line of the through part of the ^{tation}
King’s Highway meets the centre line of or the centre line
of the prolongation of any other highway that intersects or
meets the King’s Highway.

(2) Notwithstanding any general or special Act, regulation, ^{King’s}
by-law or other authority, no person shall, except under a ^{Highway,}
permit therefor from the Minister, ^{control}

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of the King’s Highway or within 600 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of the King’s Highway or within 600 feet of the centre point of an intersection;
- (c) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of the King’s Highway; or
- (d) use any land, any part of which lies within one-half mile of any limit of the King’s Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers.

(3) No person shall authorize or permit any act prohibited ^{No authori-}
by subsection 2. ^{zation by}
^{others}

(4) The Minister may order that subsection 2 or such ^{Application}
clauses thereof as he specifies do not apply within the limits
of any city, town or village or such parts thereof as he specifies.

(5) The Minister may give notice to the owner of any ^{Notice to}
land requiring him, ^{remove, etc.}

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub or hedge placed, erected or altered; or
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed,

in contravention of subsection 2.

Service of
notice

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following its mailing.

Failure to
comply with
notice

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, sign, notice or advertising device as required by the notice.

Offence

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and not less than \$50 and not more than \$500 for any subsequent offence.

Compensation

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or a road, tree, shrub, hedge, sign, notice or advertising device was placed, erected or altered, as the case may be,

- (a) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or
- (b) before the day on which the King's Highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure

(10) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11.

Permits

(11) The Minister may issue permits under this section in such form and upon such terms and conditions as he deems proper, and may in his discretion cancel any such permit at any time.

Fee

(12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. 1957, c. 43, s. 33.

35.—(1) In this section, "intersection" means the part of the King's Highway contained within the prolongation or connection of the boundary lines of a private road that crosses the King's Highway. Interpretation

(2) The Lieutenant Governor in Council may make regulations designating provisions of *The Highway Traffic Act* or the regulations thereunder that shall not apply in intersections in territory without municipal organization. 1960, c. 44, s. 3. Private road, King's Highway intersections in unorganized territory R.S.O. 1960, c. 172

PART II

CONTROLLED-ACCESS HIGHWAYS

36. The Lieutenant Governor in Council may designate any part of the King's Highway as a controlled-access highway. 1957, c. 43, s. 34. Controlled-access highway, designation

37.—(1) In this section, "road" includes an unopened road allowance. Interpretation

(2) Subject to the approval of the Board, the Minister may close any road, other than a highway that is under the jurisdiction and control of the Department, that intersects or runs into a controlled-access highway. Closing of intersecting municipal roads

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards thereof, as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the Minister within such time as the Board directs. Application for approval

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it deems proper. Powers of Board

(5) The Minister or a person, including a municipality or local board thereof, that has filed particulars of a claim or objection may, with leave of the Court of Appeal, appeal to that court from any order made under subsection 4, and subsections 4 to 6 of section 11 apply *mutatis mutandis* thereto. Appeal

(6) Upon the closing of a road in accordance with an order of approval, the Minister shall make due compensation to the owner of land injuriously affected by the closing and every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11, but no Compensation

claim by or on behalf of a person who has not filed particulars of his claim within the time directed by the Board under subsection 3 shall be allowed except by leave of the Board. 1957, c. 43, s. 35.

Interpre-
tation

38.—(1) In this section, “centre point of an intersection” is the point where the centre line of the through part or parts of a controlled-access highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the controlled-access highway.

Controlled-
access
highways,
control

(2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (c) sell, offer or expose for sale any vegetables, fruit or other produce or any goods or merchandise upon or within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (d) place, erect or alter any power line, pole line or other transmission line within one-quarter mile of any limit of a controlled-access highway;
- (e) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of a controlled-access highway;
- (f) use any land, any part of which lies within one-half mile of any limit of a controlled-access highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers; or
- (g) construct or use any private road, entranceway, gate, or other structure or facility as a means of access to a controlled-access highway.

(3) No person shall authorize or permit any act prohibited by subsection 2. No authorization by others

(4) The Minister may order that subsection 2 or such clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies. Application

(5) The Minister may give notice to the owner of any land requiring him, Notice to remove, etc.

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line placed, erected or altered; or
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed; or
- (c) to close up any private road, entranceway, gate or other structure or facility constructed or maintained as a means of access to a controlled-access highway,

in contravention of subsection 2.

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter, and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof. Service of notice

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, or to close up the private road, entranceway, gate or other structure or facility as required by the notice. Failure to comply with notice

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for any subsequent offence. Offence

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other Compensation

structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, private road, entranceway, gate or other structure or facility was placed, erected, altered, constructed or used, as the case may be,

- (a) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or
- (b) before the day on which the controlled-access highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure (10) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11.

Permits (11) The Minister may issue permits under this section in such form and upon such terms and conditions as he deems proper and may in his discretion cancel any such permit at any time.

Fee (12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. 1957, c. 43, s. 36.

Regulation of vehicles and animals **39.**—(1) The Minister may make regulations prohibiting or regulating the use of controlled-access highways by any class of vehicles or animals.

Offence (2) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50. 1957, c. 43, s. 37.

Service roads **40.** The Minister and any municipality may enter into agreements for the establishment, construction and apportionment of the cost of roads within the municipality for the purpose of providing means of access to a controlled-access highway at a point where access is permitted. 1957, c. 43, s. 38.

PART III

SECONDARY HIGHWAYS

Secondary highways, designation **41.** The Lieutenant Governor in Council may designate any highway as a secondary highway and thereupon Part I and all the other provisions of this Act and the regulations

that apply to the King's Highway apply *mutatis mutandis* to such secondary highway. 1957, c. 43, s. 39.

PART IV

TERTIARY ROADS

42.—(1) The Lieutenant Governor in Council may designate an existing road in territory without municipal organization as a tertiary road and thereupon the provisions of this Act and the regulations that apply to the King's Highway, except sections 33 and 34, apply *mutatis mutandis* to such tertiary road. Tertiary roads, designation

(2) Subject to subsections 4 and 5, a tertiary road shall be maintained by the Department, but such maintenance does not include the clearing or removal of snow therefrom or the application of chemicals or abrasives to the icy surfaces hereof. maintenance

(3) No action shall be brought against the Crown for damages caused by the default of the Department in maintaining a tertiary road, and the Crown is not liable for any damage sustained by any person using a tertiary road. liability for damages

(4) The Minister may enter into an agreement with any person for the removal of snow from a tertiary road or the application of chemicals or abrasives to the ice surfaces thereof, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature. snow removal

(5) Where the Minister deems it desirable that persons who own land in territory without municipal organization in which a tertiary road is situate should elect road commissioners and maintain it under *The Statute Labour Act* or become incorporated under *The Municipal Act* or otherwise contribute to its maintenance, it shall not be maintained by the Department unless the interested persons enter into an agreement with the Minister for such maintenance, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of moneys appropriated therefor by the Legislature. 1960, c. 44, s. 4, *part*. maintenance contributions
R.S.O. 1960, cc. 382, 249

PART V

RESOURCE ROADS

43.—(1) The Lieutenant Governor in Council may designate a tertiary road as a resource road. Resource roads, designation

Load limits, etc., do not apply
R.S.O. 1960, c. 172

(2) Sections 45, 52, 53, 54, 55 and 58 of *The Highway Traffic Act* do not apply to a resource road or to vehicles operated upon a resource road, as the case may be. 1960, c. 44, s. 4, *part*.

PART VI

INDUSTRIAL ROADS

Industrial roads, designation

44.—(1) The Minister may designate as an industrial road a private road that he deems necessary for the development or operation of the lumbering, pulp or mining industry but which in his opinion should also be used by the public for road purposes other than those of the industry.

maintenance

(2) The Minister and the owner of an industrial road may enter into an agreement for the maintenance of the industrial road by the owner, and as long as the owner permits the public to use the industrial road the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost of maintenance as he deems requisite.

jurisdiction and control

(3) Notwithstanding any other Act, an industrial road remains a private road under the jurisdiction and control of the owner, but subject to the use of the public as described in subsections 1 and 2. 1960, c. 44, s. 4, *part*.

PART VII

COUNTY ROADS

Establishment of system

45.—(1) A county may by by-law adopt a plan of county road construction and maintenance and establish a county road system by designating the roads in any municipality in the county that are to form the system and may include in the system such boundary-line roads between the county and any other county or between the county and a city or separated town as are agreed upon by the municipalities interested.

General rate

(2) The by-law shall provide for the levying of a general annual rate upon all the municipalities in the county not separated therefrom for municipal purposes unless the Minister is of opinion that on account of the remoteness of a municipality from the roads in the county road system it is inequitable that the rate should be levied in such municipality, in which case the by-law shall exempt such municipality accordingly, but the representative or representatives in the county council of a municipality so exempt shall not vote upon a by-law passed under this Part, and for the

purposes of section 49 the equalized assessment of a municipality so exempt shall not be included in ascertaining the total equalized assessment of the county.

(3) All moneys raised under the by-law shall be applied in the construction and maintenance of roads in the county road system and to any expenditure properly chargeable to the county road system under this Part. ^{Application of proceeds of rate}

(4) A county may, by by-law, amend a by-law passed under this section in any manner, including the addition of roads to, or the removal of roads from, the county road system. ^{Amendment}

(5) A county may by by-law consolidate the by-law establishing its county road system and all by-laws amending such by-law, and may from time to time by by-law consolidate any such consolidating by-law and all by-laws amending such consolidating by-law. ^{Consolidating by-law}

(6) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it is not necessary for the county to pass any further by-law amending the original by-law or repealing any part thereof that has not been approved, and every such by-law as so approved is in force and has effect on and after the day on which the approval is given. ^{Approval}

(7) Every road that forms part of a county road system vests in the county and is under the jurisdiction and control of the county on and after the day on which the by-law designating the road is approved by the Lieutenant Governor in Council. ^{Vesting of roads in county}

(8) Every road that is removed from a county road system vests in the local municipality in which it is situate and is under the jurisdiction and control of that municipality on and after the day on which the by-law removing the road is approved by the Lieutenant Governor in Council. ^{Revesting of roads in local municipality}

(9) Where the Minister is of opinion that a road that forms part of a county road system is not of sufficient importance to be constructed and maintained as part of the system, the Lieutenant Governor in Council may revoke the approval of the designation of the road as part of the system, and the road thereupon vests in the local municipality in which it is situate. 1957, c. 43, s. 40. ^{Revocation of approval}

46.—(1) Where a county road system is established under this Part, the county council shall appoint by by-law three ^{County road committee}

or five persons who are residents of the county, but who need not be members of the council, who shall constitute a committee to direct the work to be done on the county road system.

Term of
office

(2) Where the committee consists of three members, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of three years, and where the committee consists of five members, one member shall be appointed and hold office for a term of five years, one member shall be appointed and hold office for a term of four years, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of five years.

Re-appoint-
ment

(3) A member of the committee is eligible for re-appointment upon the expiry of his term of office.

Removal
from office

(4) A member of the committee may be removed by a vote of two-thirds of the members of the county council present and voting thereon at a regular meeting of the council.

Vacancies

(5) Where a member of the committee is so removed or dies or resigns his office, the county council may appoint some other person to fill the vacancy for the remainder of the term for which the person so removed, dying or resigning was appointed.

Warden
ex officio
member

(6) The warden of the county for the time being is *ex officio* a member of the committee and may sit and vote thereon.

Suburban
road com-
missioners
as county
road
committee

(7) Where a county road system is established under this Part in a county in which a suburban roads commission has been appointed, the county may by by-law provide that the members from time to time of the suburban roads commission constitute the committee to direct the work to be done on the county road system and in such case this section does not apply. 1957, c. 43, s. 41.

County road
superin-
tendent

47.—(1) Where a county road system is established under this Part, the county shall by by-law appoint a county road superintendent who shall be a professional engineer registered as a civil engineer under *The Professional Engineers Act*.

R.S.O. 1960,
c. 309

(2) The county road superintendent shall, under the direction of the county road committee, administer and manage the county road system. ^{Duties}

(3) Where a vacancy occurs in the office of county road superintendent, the county shall appoint another qualified person to the office. ^{Vacancy}

(4) A copy of every by-law appointing a county road superintendent or dealing with his salary and allowance shall be transmitted to the Minister within thirty days of the passing thereof and has no force or effect until approved in writing by the Minister, and when so approved shall not be repealed or amended without the approval in writing of the Minister. ^{Copy of by-law to be sent to Minister}
1957, c. 43, s. 42 (1-4).

(5) Notwithstanding *The Municipal Act*, no member of the county council and no member of the council of a local municipality in the county shall be appointed or act as county road superintendent or be employed by the county road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention. ^{Members of councils not to be appointed R.S.O. 1960, o. 249}
1957, c. 43, s. 42 (5); 1960, c. 44, s. 5.

48. The disbursement of all moneys pertaining to the county road system shall be made by the county treasurer only on the certificate of the county road superintendent approved by the county road committee as certified under the hand of the chairman thereof. ^{Payment, how to be made}
1957, c. 43, s. 43.

49.—(1) Subject to subsection 2, a county may, without the assent of the electors, pass by-laws to raise by debentures payable in not more than twenty years in the manner provided by *The Municipal Act* such sums as may be necessary to meet the actual expenditure for the construction of roads under this Part. ^{Debentures}

(2) Where a county has paid over moneys raised on sinking fund account to the Treasurer of Ontario under section 315 of *The Municipal Act*, the amount to be raised for the construction of roads under subsection 1 may be a sum not exceeding the total amount so in the hands of the Treasurer of Ontario with 5 per cent of the equalized assessment of the county added thereto. ^{Limit of amount of county rate}

(3) A county may agree with a chartered bank or loan or trust corporation or with any person for temporary advances to meet the cost of construction of roads under this Part, but the total of such temporary advances shall not exceed in any one year the amount to be provided by the county ^{Temporary advances}

together with the proportion of aid to be received from the Province, and the amount receivable from cities and towns as contributions on account of suburban roads under Part VIII, and the county may pass by-laws to raise by debentures in the same manner as provided in subsection 1 such sums as may be necessary to repay such temporary advances. 1957, c. 43, s. 44.

Submission
of by-law
covering
estimated
expenditure

50.—(1) Every county that has established a county road system shall submit to the Minister for his approval a by-law covering the estimated expenditure on roads for the calendar year not later than the 31st day of March of the year in which the expenditure is to be made, and such by-law shall include expenditures to be made by any suburban roads commission in the county. 1957, c. 43, s. 45 (1).

Supplemen-
tary by-law

(2) A county may at any time submit to the Minister for his approval a by-law covering an estimated expenditure on roads supplementing the by-law submitted under subsection 1. 1958, c. 35, s. 3.

Subsidy

(3) No subsidy shall be granted to a county for work undertaken by the county that has not been provided for by a by-law approved by the Minister. 1957, c. 43, s. 45 (2).

Annual
statement
to Minister

51.—(1) Where a plan of road construction and maintenance under this Part is being carried out, the county shall annually, and may with the consent of the Minister at any time during the progress of the work, submit to the Minister,

- (a)** a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b)** a declaration of the county road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c)** a declaration of the county treasurer that the statement of receipts and expenditures is correct; and
- (d)** a petition for the payment of the grant authorized by resolution of the council, or in the case of an interim statement, by resolution of the county road committee.

Payment
to county

(2) Upon receipt of the statement, declarations and petition, the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent, or in the case of a bridge or culvert an amount not exceeding 80 per cent, of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

(3) Except with the consent of the Minister, no expenditure towards which a contribution has been or may be made from any source shall be included in a statement submitted under this section. 1957, c. 43, s. 46.

Certain expenditures not included in statement

52. The roads forming part of a county road system shall be maintained and kept in repair by the county, and in all cases the Minister shall determine the amount of the expenditure for construction or maintenance or for the purchase or maintenance of road machinery, plant and equipment that is properly chargeable to road improvement under this Act, and his decision is final. 1957, c. 43, s. 47.

Roads to be county roads

53. Every road constructed or maintained as part of a county road system shall be constructed and maintained in accordance with the requirements of the Minister. 1957, c. 43, s. 48.

County road system, construction and maintenance

54. Expenditure for which a county may be entitled to aid to county roads under this Act may include the maintenance by the county of a ferry service that forms a connecting link of a county road system or forms a link between the county road systems of adjacent counties, and may also include the cost of purchasing, establishing and equipping such ferry service, but when so aided, the equipment, service and tolls therefor are subject to the approval of the Minister. 1957, c. 43, s. 49.

County expenditure may include ferry service

55.—(1) Where under *The Municipal Act* a county has jurisdiction over a bridge that is more than twenty feet in span and the bridge is not in the county road system, the expenditure involved in constructing and maintaining the bridge under the supervision of the county road superintendent in accordance with plans approved by an officer of the Department designated by the Minister shall be deemed to form part of the expenditure in carrying out the plan of county road construction and maintenance, and debentures issued by a county after the 8th day of April, 1926, for the construction of any such bridge are legal, valid and binding upon the county and the ratepayers thereof notwithstanding that the by-law authorizing the issue thereof has not been submitted to and did not receive the assent of the ratepayers in accordance with *The Municipal Act*.

County expenditure may include county bridges
R.S.O. 1960, c. 249

(2) The Minister may direct the payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent of the cost of constructing and maintaining any such bridge more than twenty feet in span in accordance with plans approved by an officer of the Department designated by the Minister.

Aid to county bridges

Transfer
of small
bridges

(3) A county may by by-law provide that jurisdiction over every bridge of twenty feet or less in span that is not included in the county road system shall be transferred to the local municipality or municipalities in which it is situate, and thereupon all the rights, liabilities and obligations of the county with respect to such bridge are transferred to and vested in and imposed upon such local municipality or municipalities.

Diverting
road to
avoid con-
struction
of bridge
R.S.O. 1960,
c. 249

(4) A county, with the approval of the Lieutenant Governor in Council, may by by-law provide for the closing of any bridge over which the county has jurisdiction under *The Municipal Act* or the substitution thereof of any other structure and for that purpose may exercise as to such bridge or other structure and the approaches thereto all the powers of a county as to roads and bridges in a county road system. 1957, c. 43, s. 50.

Intersection
of other
roads by
county road

56. Where a county road intersects a road that is not a county road, the continuation of the county road to its full width across the road so intersected is a part of the county road system, except in the case of an intersection by a county road of the King's Highway, in which case section 21 applies. 1957, c. 43, s. 51.

Sidewalks
excepted

57. A county is not liable for the construction or maintenance of sidewalks on any road in its county road system. 1957, c. 43, s. 52.

Contrib-
ution of cities,
etc., to
improve-
ment of
county roads

58. Where a county road leading or adjacent to a city or separated town is or is to be improved or requires or will require the expenditure of a greater amount for maintenance to meet in any such case the requirements of increased, heavy or other extraordinary traffic to or from the city or separated town beyond the requirements which, but for the existence of the city or separated town, would be deemed those of a standard road for the locality, the city or separated town by by-law passed with the assent of at least two-thirds of the members of the council thereof may agree with the county to contribute such additional cost, or a proper proportion of the cost, or that the amount of the contribution of the city or separated town shall be determined by arbitration under *The Municipal Act*, and may, without the assent of the electors, provide by by-law for the issue of debentures payable in not more than twenty years from the date of the issue thereof to raise the amount agreed upon or awarded, or may agree with the county for the payment of such amounts in annual instalments to be raised by an annual special rate upon the rateable property in the city or separated town. 1957, c. 43, s. 53.

59.—(1) A local municipality that is not separated from the county and the county or the suburban roads commission may enter into an agreement in writing providing for the widening of any county or suburban road in the local municipality or for the construction of a pavement more than twenty-two feet in width or other special construction thereon and for the maintenance of such pavement or other special construction.

Agreement between local municipality and county for extra work

(2) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work, but no work shall be done until the agreement has been approved in writing by the Minister.

Either party may do work; consent of Minister

(3) Where the agreement provides that the land required for the widening of the road is to be acquired by the local municipality, the local municipality, notwithstanding section 414 of *The Municipal Act*, may pass by-laws for widening the road and acquiring by purchase or otherwise or expropriating such land, and the provisions of *The Municipal Act* as to the acquiring, occupying and taking of land for municipal purposes apply to the acquiring, occupying or taking of land under any such by-law.

Acquisition of land by local municipality

R.S.O. 1960, c. 249

(4) The local municipality shall convey the land so acquired to the county and thereupon the land becomes a part of the road and is included in the county road system, and, where the road has been designated and approved as a suburban road under Part VIII, the land becomes part of the suburban road.

Transfer to county

(5) In the case of the construction of a pavement more than twenty-two feet in width, the agreement shall provide the proportion in which the cost thereof is to be borne by the respective parties, but such cost shall not include the cost of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the local municipality.

Apportionment of cost of construction of wider pavements

(6) The proportion of the cost of constructing such wider pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of a strip of the pavement twenty-two feet in width to the total area of such pavement, and, where a part of the roadway that is to be paved is occupied by the track allowance of a street railway, for the purpose of determining such minimum proportion, the cost of constructing such track allowance including the paving thereof shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area.

Minimum proportion to be borne by county or suburban roads commission

Idem, in case of the widening of an existing pavement

(7) Where there is an existing pavement less than twenty-two feet in width on the county or suburban road and a wider pavement is agreed upon, the proportion of the cost of constructing the additional width of pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of that part of such additional width which together with the existing pavement would provide a total paved width of twenty-two feet to the total area of such additional width of pavement.

Idem

(8) Where there is an existing pavement twenty-two feet or more in width on the county or suburban road and a wider pavement is agreed upon, the agreement may provide that the cost of constructing the additional width of pavement is to be borne entirely by either of the parties or in any agreed proportion by each of them.

Apportionment of cost of maintenance

(9) In the case of the maintenance of a pavement more than twenty-two feet in width, the agreement shall provide the proportion of the cost thereof, including the removal of snow and the application of chemicals or abrasives and the removal thereof, that is to be borne by the respective parties, but such cost shall not include the cost of maintaining curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the local municipality.

Minimum proportion to be borne by county or suburban roads commission

(10) The proportion of the cost of maintaining such wider pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of a strip of the pavement twenty-two feet in width to the total area of such pavement, and, where a part of the paved roadway is occupied by the track allowance of a street railway, for the purpose of determining such minimum proportion, the cost of maintaining such track allowance shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area.

Failure to agree

(11) Where the local municipality and the county or the suburban roads commission are unable to agree upon a term or condition of an agreement authorized by this section or where either the local municipality and the county or the suburban roads commission refuses to enter into such an agreement, the Minister may prescribe such term or condition or may require such an agreement to be entered into and such agreement may be enforced in the same manner as an agreement executed by the local municipality and by the county or the suburban roads commission.

Debentures for local municipality's share

(12) The local municipality may pass by-laws to raise by debentures such sum as may be necessary to meet its share of the cost of the widening of the road or the construction

of a pavement under an agreement entered into under this section and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or such share may be assessed under *The Local Improvement Act* according to the report of an engineer.

R.S.O. 1960,
cc. 249, 223

(13) Where the Minister has approved an agreement under this section, the cost of the widening of the road, the construction of a pavement, the maintenance of a pavement, the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement that is borne and paid by the local municipality in accordance with the agreement may, for the purpose of determining the grant payable to the local municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures on roads under the jurisdiction of the local municipality submitted to the Minister under this Act, but the cost of constructing or maintaining any sanitary or storm sewer or drain shall not be included in such statement.

Subsidy
to local
municipality

(14) Where the agreement provides that the pavement or a part thereof is to be maintained and kept in repair by the local municipality and the local municipality makes default in so doing and the county or the suburban roads commission becomes liable under section 443 of *The Municipal Act* for damage suffered by or occasioned to any person in consequence of such default, the county or the suburban roads commission is entitled to the remedy over against the local municipality provided for by section 450 of *The Municipal Act*. 1957, c. 43, s. 54.

Remedy
over

60.—(1) Where a road in an urban municipality not separated from the county is not a part of the county road system but is an extension of or connects roads in the county road system, the county shall enter into an agreement in writing with the urban municipality for the maintenance of such road, and, if it is in the public interest that such road be constructed, for the construction thereof.

Agreement
between
county and
urban mun-
icipality re
county road
extensions,
etc.

(2) Where the county and the urban municipality are unable to agree whether it is in the public interest that such road be constructed, the Minister shall decide the issue and his decision is final.

Failure
to agree

(3) Where a county and an urban municipality are unable to agree upon a term or condition or the form of an agreement required to be entered into under subsection 1 or where either refuses to enter into such an agreement, the Minister may prescribe the terms, conditions or form thereof, or all

Idem

of them, or may require such an agreement to be entered into, and such agreement may be enforced in the same manner as an agreement executed by the county and the urban municipality.

Approval
of
Minister

(4) The agreement has no force or effect until approved in writing by the Minister.

Either
party may
do work

(5) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work.

How con-
struction
cost to
be borne

(6) In the case of the construction of a pavement twenty-two feet or less in width, the agreement shall provide that the county is to pay the total cost of such construction.

Idem, in
case of
wider
pavement

(7) In the case of the construction of a pavement more than twenty-two feet in width, the agreement shall provide that the county is to pay that part of the total cost of such construction that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement twenty-two feet in width bears to the total area of such pavement or such approximation to that proportion as is agreed upon.

Idem, in
case of
widening
existing
pavement

(8) Where there is an existing pavement twenty-two feet or less in width and the urban municipality desires to widen it, the agreement shall provide that the county is to pay that part of the total cost of constructing the additional width of pavement that bears the same proportion to such total cost as the area of that part of such additional width which together with the existing pavement would provide a total paved width of twenty-two feet bears to the total area of such additional width of pavement or such approximation to that proportion as is agreed upon.

Total cost,
what to
include

(9) The total cost mentioned in subsections 6, 7 and 8 includes the cost of any necessary grading, shouldering, under-drainage or base construction, but does not include the cost of the construction of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the urban municipality.

How main-
tenance
cost to be
borne

(10) In the case of the maintenance of a pavement or roadway twenty-two feet or less in width, the agreement shall provide that the county is to pay the total cost of such maintenance.

Idem, in
case of
wider
roadway

(11) In the case of the maintenance of a pavement or roadway more than twenty-two feet in width, the agreement shall provide that the county is to pay that part of the total cost of such maintenance that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement

or roadway twenty-two feet in width bears to the total area of such pavement or roadway or such approximation to that proportion as is agreed upon.

(12) The total cost mentioned in subsections 10 and 11 includes the cost of the removal of snow and the application of chemicals and abrasives and the removal thereof, but does not include the cost of the maintenance of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the urban municipality. Total cost, what to include

(13) Where a part of the pavement or roadway is occupied by the track allowance of a street railway, then for the purposes of an agreement under this section such track allowance shall be deemed not to form part of the pavement or roadway, and, in determining the cost of construction or maintenance that is to be borne by the respective parties, the cost of constructing or maintaining such track allowance, including the pavement thereof, shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area of the pavement or roadway. In case of street railway

(14) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway that is borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may, for the purpose of determining the grant payable to the county out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the county under this Part. Subsidy to county

(15) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway, including the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement that is borne by the urban municipality under the agreement, may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X, but the cost of constructing or maintaining any sanitary or storm sewer or drain shall not be included in such statement. Subsidy to urban municipality

(16) In the case of the construction or maintenance of a culvert or bridge on, over or across which the roadway passes and which is under the jurisdiction and control of the urban municipality, the agreement shall provide that the cost of such construction or maintenance, exclusive of any part thereof that is incurred to provide for sidewalks or for the Construction or maintenance of culvert or bridge, how cost to be borne

track allowance of a street railway, is to be borne 50 per cent by the county and 50 per cent by the urban municipality.

Subsidy to
county

(17) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent thereof.

Subsidy to
urban
municipality

(18) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the urban municipality may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X.

Jurisdiction

(19) A road that is constructed or maintained under this section remains under the jurisdiction and control of the urban municipality and it may pass by-laws to raise by debentures such sums as may be necessary to meet its share of the cost of construction and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or such share may be assessed under *The Local Improvement Act* according to the report of an engineer. 1957, c. 43, s. 55.

R.S.O. 1960,
cc. 249, 223

County to
make con-
tribution
towards
other roads
in urban
municipality

61.—(1) In addition to the amount that the county may expend in any year on county roads in an urban municipality not separated from the county either directly or pursuant to an agreement under section 59 and on county road extensions or connecting links in such urban municipality pursuant to an agreement under section 60, the county shall in the same year make a contribution towards the construction and maintenance of other roads in such urban municipality.

Form of
contribution

(2) Such contribution may be in the form of work carried out by the county at the request of the urban municipality that is properly chargeable to road improvement under Part X, or in the form of a cash payment towards work carried out by the urban municipality under Part X, or a combination of such forms. 1957, c. 43, s. 56 (1, 2).

Minimum
and
maximum
contribution

(3) Such contribution shall not be less in total value than 25 per cent or more in total value than 50 per cent of the amount levied on the urban municipality for county road purposes in the same year under the by-law mentioned in

section 45, exclusive of any part thereof levied for the purpose of paying off the urban municipality's share of any debenture or other debt of the county, unless the value of the work properly chargeable to road improvement under Part X and actually performed on such other roads in the same year is less than 25 per cent of the amount so levied, and in no case shall such contribution exceed the value of such work so actually performed. 1957, c. 43, s. 56 (3); 1958, c. 35, s. 4.

(4) Where in any year such contribution or a part thereof is to take the form of a cash payment, the urban municipality shall, not later than the 15th day of November in that year, submit to the county road superintendent a certified statement showing in detail the location, nature and extent of the work done on such other roads by the urban municipality and the actual expenditures made thereon, and the county shall pay the amount of the contribution remaining due to the urban municipality under this section on or before the 31st day of December in the same year. How to be paid

(5) The contribution made by the county under this section shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent thereof. Subsidy to county

(6) An agreement for the construction of a county road extension or connecting link under section 60 may provide that the county is to be relieved of its obligation to pay any contribution under this section so long as the amount expended by the county under the agreement is greater than the amount that would have been paid by it from year to year under this section, and in that case this section does not apply. 1957, c. 43, s. 56 (4-6). Agreement may exempt county from this section

62.—(1) Sections 452 and 454 of *The Municipal Act* do not apply to a bridge or road crossing or forming a boundary line between counties or between a county and a city or separated town, where the county in the latter case, or one or more of such counties in the former case, have adopted a plan of county road construction and maintenance under this Part, and the plan includes such bridge or road. Disputes as to maintenance, etc., of bridges and roads R.S.O. 1960, c. 249

(2) Where there is a difference between two or more municipalities in respect of any such bridge or road as to the municipality upon which the obligation rests, as to the construction and maintenance of the bridge or road or as to the proportions in which the municipalities should respectively contribute thereto, or where two or more municipalities are unable to Disputes as to county boundary lines and bridges

agree as to any action, matter or thing to be taken or done in respect of such bridge or road, every such difference shall be determined by the Board upon an application by any municipality interested in such bridge or road.

Hearing

(3) The Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality interested, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or road, and the Board may make such order as it deems just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute towards the construction and maintenance of such bridge or road.

Duration of order

(4) An order of the Board under this section is binding upon all the municipalities interested for such period as the Board determines. 1957, c. 43, s. 57.

Powers of county over roads assumed

63. A county has, in respect of the roads included in the county road system, all the rights, powers, benefits and advantages conferred either by by-law or agreement or otherwise upon the local municipality or local municipalities that had jurisdiction over the roads before they were included in the county road system, and the county may sue thereon in the same manner and to the same extent as the local municipality or municipalities might have done if the roads had not been included in the county road system. 1957, c. 43, s. 58.

Restrictions

64.—(1) A county in which a county road system has been established has, with respect to land lying within a distance of 150 feet from any limit of a county road, all the powers conferred on a local municipality by section 30 of *The Planning Act*.

R.S.O. 1960,
c. 296

Conflict with local by-law

(2) In the event of conflict between a by-law passed under subsection 1 or a predecessor thereof by a county and a by-law passed under section 30 of *The Planning Act* or a predecessor thereof by the local municipality in which the land is situate, the by-law of the county prevails to the extent of such conflict, but in all other respects the by-law passed by the local municipality remains in full force and effect. 1957, c. 43, s. 59, *revised*.

Gas pumps and signs on county roads

65.—(1) A county may, with respect to the roads under its jurisdiction and control, by by-law prohibit or regulate,

(a) the placing, erecting or altering of any gasoline pump within 150 feet of any limit of a road; and

- (b) the displaying of any sign, notice or advertising device within one-quarter mile of any limit of a road.

(2) A by-law passed under this section may provide for the issuing of permits for the placing, erecting, altering or displaying of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor, and may prescribe penalties for contravention of the by-law. Permits

(3) A county shall submit a by-law passed under this section to the Minister for his approval in writing and the by-law shall be in force and effect only on and after the day on which the approval is given. 1957, c. 43, s. 60. Approval

66.—(1) Where in the exercise of its powers or in the performance of its obligations under this Part a county finds that it is necessary to expropriate land for the purpose of opening up, widening, improving, protecting from erosion, altering or diverting a county road, the county may, instead of the procedure provided by *The Municipal Act*, proceed in the manner provided by Part I in the case of lands taken by the Minister under that Part, and the provisions of that Part apply *mutatis mutandis*, and the powers and duties of the Minister as set out in that Part may be exercised and performed in the name of the county. Procedure
on expro-
priation
of land

R.S.O. 1960,
o. 249

(2) The plan and description of the land to be expropriated shall be signed by the warden and clerk of the county and by an Ontario land surveyor, and upon the registration of the plan and description in the proper registry or land titles office the land is vested in the county. 1957, c. 43, s. 61. Plan and
description,
registration

67. The Minister may arrange with the Government of Canada for the construction or maintenance, under the supervision of the county road superintendent and in accordance with the requirements of the Minister, of any road in a township or part of a township constituting an Indian reserve or of any road under the control of the Government of Canada that lies within the limits of a municipality not separated from the county for municipal purposes where the road forms an extension of or connecting link in a county road system, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to the percentage of the net expenditure made by the county under such arrangement as is provided for in section 51. 1957, c. 43, s. 62. Roads in
Indian
reserves and
other lands
under the
control of
the Govern-
ment of
Canada

PART VIII

SUBURBAN ROADS

Suburban
roads com-
mission

68.—(1) The Lieutenant Governor in Council, upon application of a county in which a county road system is established under Part VII, may direct that a commission be appointed in respect of each city or separated town in the county and, subject to the approval of the Minister, each commission may designate roads in the county road system as suburban roads and the city or separated town shall contribute towards the construction and maintenance of such roads in accordance with this Part.

Duties

(2) The construction and maintenance of suburban roads and the expenditure thereon shall be directed by the suburban roads commission.

Composi-
tion, in city
of less than
50,000 or
town

(3) In the case of a city having a population of less than 50,000 or of a separated town, the suburban roads commission shall be composed of three persons, one to be appointed by the city or separated town, one by the county, and the third to be agreed upon by the two members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Idem, in
city of
50,000 or
more

(4) In the case of a city having a population of 50,000 or more, the suburban roads commission shall be composed of five persons, two to be appointed by the city, two by the county and the fifth to be agreed upon by the four members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Time for
making
appoint-
ments

(5) The city or the separated town and the county shall make their appointments of members of the suburban roads commission within thirty days from the date of the order in council directing the commission to be appointed.

Term of
office

(6) The members of a suburban roads commission shall hold office for a term of five years from the date of the order in council directing the commission to be appointed and no longer, and at the expiration of the period and thereafter at the expiration of every period of five years, the members of a commission shall be appointed as provided in this section, and any member of a commission is eligible for reappointment.

Appoint-
ment where
default
made

(7) Where a city, separated town or county fails to make an appointment as required by this section, the appointment may be made by the Lieutenant Governor in Council.

Removal
of com-
missioners

(8) A member of a suburban roads commission may be removed and another person appointed in his place by a vote of two-thirds of the members of the council that appointed

him who are present and vote thereon at a regular meeting of the council, if notice of the intention of the council to determine the question of the removal has been given at the next preceding meeting of the council.

(9) Where a member of a suburban roads commission dies or resigns or is removed, the authority by which the member was appointed shall appoint another person to fill the vacancy for the remainder of the term for which the person so dying, resigning or removed was appointed. 1957, c. 43, s. 63 (1-9). Vacancies

(10) Any member of a suburban roads commission who is, directly or indirectly, interested in a contract with the commission or in which the commission has an interest *ipso facto* ceases to be a member of the commission and the vacancy so created shall be filled under subsection 9. 1958, c. 35, s. 5. Interest in contracts

(11) Every suburban roads commission is a corporation and the name by which it is to be known shall be fixed by the Lieutenant Governor in Council. Incorporation and name

(12) Notwithstanding any general or special Act, no person who is a member of the Assembly or of a municipal council or who is an employee of a municipality is eligible to be a member of a suburban roads commission. 1957, c. 43, s. 63 (10, 11). Who ineligible to act as member of commission

69. A plan and description of the suburban roads designated by a suburban roads commission shall be transmitted by the commission to the Minister within six months from the date of the order in council directing the appointment of the commission, and, after the approval thereof by the Minister, no alterations or amendments thereof shall be made by the commission until approved in like manner. 1957, c. 43, s. 64. Deposit of plan

70.—(1) Suburban roads continue to be county roads under the jurisdiction and control of the county and the construction and maintenance thereof shall continue to be under the supervision of the county road superintendent but subject to the direction of the suburban roads commission, and the sums expended for construction and maintenance may be included in the statements of expenditure provided for in section 51, upon which the grants payable by the Province will be determined and paid. Suburban roads continue as county roads

(2) The work on suburban roads may be carried on under the supervision of an engineer with the same professional qualifications as a county road superintendent and employed for that purpose by the commission in place of the county road superintendent, and the provisions of this Act apply to such engineer in the same manner as to a county road Engineer of commission

superintendent, and the declaration of such engineer with respect to work and expenditure on suburban roads shall be accepted in lieu of the declaration of the county road superintendent as required by section 51.

Additional
compensa-
tion to
county road
superin-
tendent

(3) Where the county road superintendent has supervision over work on suburban roads, the commission may by resolution, subject to the approval of the Minister, authorize the payment to him of such annual sum in addition to his salary as county road superintendent as is deemed proper. 1957, c. 43, s. 65.

Expendi-
tures

71.—(1) The expenditures on suburban roads shall be borne by the county, the city or separated town and the Province in the proportion of 25 per cent by the county, 25 per cent by the city or separated town and 50 per cent by the Province, but, where expenditure is made on a bridge or culvert, the Minister may direct the Province to bear a greater proportion, not exceeding 80 per cent thereof, in which case the balance of the expenditure shall be divided equally between the county and the city or separated town.

Appropri-
ation may be
by resolu-
tion of
county
council

(2) An appropriation for the purposes mentioned in this section may be made annually by resolution of the county council and may be made before the designation by the suburban roads commission of the roads upon which the appropriation is to be expended.

Limit of
contribution
by city or
town

(3) The amount to be provided by the city or separated town shall not exceed the proceeds of a rate of one-half mill on the dollar of the value of the rateable property of the city or separated town according to the last revised assessment roll, unless in any year by agreement with the county council the council of the city or separated town by by-law appropriates for work on suburban roads a sum not exceeding the proceeds of a rate of two mills on the dollar of the value of such rateable property, but such by-law shall not be passed until the county council has appropriated an equal amount for the like purposes to be expended in the same year. 1957, c. 43, s. 66.

Notice to
city or
town by
county clerk

72. The clerk of the county shall, not later than the 1st day of March in each year, notify the city or separated town of the amount appropriated by the county for the construction and maintenance of the suburban roads, and the treasurer of the city or separated town shall, not later than the 1st day of November following, transmit the equivalent amount to the treasurer of the county by whom it shall be paid to the order of the suburban roads commission. 1957, c. 43, s. 67.

73.—(1) The council of each city or separated town shall provide annually or from time to time an amount equal to that appropriated by the county council for the construction and maintenance of suburban roads, and such amount is a debt due to the county by the city or separated town.

Provision
for con-
tribution
by city
or town to
suburban
roads

(2) For the purposes of this section, the city or separated town may raise from time to time such sums as may be required for construction by the issue of debentures, as in section 49 provided, but all sums required for the purposes of maintenance shall be provided from the current revenue of the municipality.

Issue of
debentures
for city's
or town's
share

(3) Where it appears that the rate of one-half mill on the dollar mentioned in subsection 3 of section 71 is not sufficient to carry out permanent or extensive work, the city or separated town, with the approval of the Minister, may raise such further sums by the issue of debentures as are deemed necessary, and may apply a portion of the proceeds of the annual rate of one-half mill on the dollar on paying off such debentures.

Issuing
town or city
debentures
for sub-
urban roads

(4) It is not necessary to obtain the assent of the electors to a by-law for the issue of debentures under this section or to observe the other formalities in relation thereto prescribed by *The Municipal Act*. 1957, c. 43, s. 68.

Assent of
electors not
required

R.S.O. 1960,
c. 249

74. No error or omission or insufficiency in the procedure provided for by this Act relieves a county or city or separated town from liability to contribute towards the construction and maintenance of suburban roads, and the treasurer of a city or separated town that is liable to contribute towards the construction and maintenance of suburban roads shall, not later than the 1st day of November in each year, forward to the county treasurer an amount equal to the amount appropriated by the county council for the construction and maintenance of suburban roads in that year, but the amount of such contribution shall be limited as provided by section 71. 1957, c. 43, s. 69.

Informali-
ties not to
invalidate
proceedings

PART IX

TOWNSHIP ROADS

75.—(1) Every township in which statute labour has been abolished by by-law shall, by by-law, appoint a township road superintendent who, subject to the direction of the council, shall inspect all roads under the jurisdiction and control of the township and shall lay out and supervise all work on such roads, and the Minister may direct that out of the moneys

Township
road super-
intendent

appropriated therefor by the Legislature 50 per cent, or such greater proportion as he deems requisite, of the salary and expenses of such superintendent paid by the township shall be reimbursed by the Province.

Approval of
by-law

(2) A copy of the by-law making such appointment shall be transmitted to the Minister within thirty days of the passing thereof and is subject to the approval of the Minister, and when so approved shall not be repealed or amended without the consent in writing of the Minister.

Superin-
tendent to
conform to
requirements

(3) The township road superintendent shall conform to such requirements as the Minister prescribes.

Annual
statement
to Minister

(4) The council of a township in which statute labour has been abolished by by-law shall submit annually to the Minister a statement showing the amount of salary and expenses of the township road superintendent paid by the township, together with a declaration of the township treasurer that the statement is correct and also a declaration of the superintendent that he has *bona fide* performed the duties of superintendent, and on receipt of the statement and declarations the Minister may direct the Treasurer of Ontario to pay to the township the amount to which the township is entitled under this section. 1957, c. 43, s. 70 (1-4).

Councillors
disqualified
as township
road super-
intendent
R.S.O. 1960,
c. 249

(5) Notwithstanding *The Municipal Act*, no member of the council of the township shall be appointed or act as township road superintendent or be employed by the township road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention. 1957, c. 43, s. 70 (5); 1960, c. 44, s. 6.

Appoint-
ment by
Minister

(6) Where a township receives aid from the Province in excess of 60 per cent of the cost of work done upon township roads, the Minister may appoint a road superintendent for the purpose of supervising work to be undertaken, and in that case it is not necessary for the township to appoint a road superintendent and the superintendent appointed by the Minister has and may exercise as to the work all the powers of a township road superintendent appointed under subsection 1. 1957, c. 43, s. 70 (6).

Grants in
aid of town-
ship road
work

76.—(1) A township in which statute labour has been abolished by by-law may submit to the Minister for approval such plans, specifications or by-laws as he requires for any or all of the following purposes:

1. Grading.
2. Drainage for road purposes.

3. Graveling, metalling with broken stone, or the construction of any kind of road surface.
4. Dust prevention by oiling, tarring or other means.
5. The systematic maintenance by dragging, graveling or other means.
6. The construction of bridges, culverts and approaches thereto.
7. The opening of a new road or the relocating, widening or straightening of an existing road.
8. The purchase of gravel pits, stone quarries, materials, equipment and machinery.
9. Such purposes of road improvement as the Minister approves.

(2) The township shall submit a by-law covering the estimated expenditure on all road construction and maintenance for the calendar year to the Minister for his approval not later than the 31st day of March of the year in which the expenditure is to be made, and no subsidy shall be granted to the township in respect of expenditure that has not been provided for by a by-law approved by the Minister. 1957, c. 43, s. 71 (1, 2).

Submission
of by-law
covering
estimated
expenditure

(3) A township may at any time submit to the Minister for his approval a by-law covering an estimated expenditure on road construction and maintenance supplementing the by-law submitted under subsection 2. 1958, c. 35, s. 6.

Supple-
mentary
by-law

(4) The Minister may direct that a subsidy under this Part shall be paid to a township in respect only of the expenditure on such road construction or maintenance as he designates and in every such case the by-law mentioned in subsection 2 shall cover only the estimated expenditure on work so designated. 1957, c. 43, s. 71 (3).

Minister
to direct
subsidy to
be paid to
township

77. Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, no subsidy shall be paid to the township under this Part for any expenditure made on the opening or constructing of any road in the subdivision unless the road is a main thoroughfare for traffic or is designated and laid out as such and is so designated by the Minister. 1958, c. 35, s. 7.

Opening or
construct-
ing road in
subdivision
not eligible

78.—(1) When approved by the Minister, the work or expenditure for a purpose mentioned in section 76 shall be carried out in accordance with the requirements of the Minister and, upon the completion of any such work or expenditure, the township may submit to the Minister an application under section 79 for the subsidy authorized by this Part.

Application
for subsidy

Cost of ferry
service may
be included

(2) Where the township is an island, expenditure for which the township may be entitled to aid under this Part may include the whole, or such proportion as the Minister directs, of the cost of establishing and maintaining a ferry service between the island and the mainland by the township, its lessee or licensee.

Roads in
Indian
reserves

(3) The Minister may arrange with the Government of Canada that a superintendent of an Indian agency for an Indian reserve may act as road superintendent to supervise the construction and maintenance, in accordance with the requirements of the Minister, of the roads in any township or part of a township constituting the Indian reserve and, where such an arrangement has been made, the Government of Canada may apply under section 79 for the subsidy authorized by this Part, and this Part applies *mutatis mutandis* thereto. 1957, c. 43, s. 72, *amended*.

Annual
statement
to Minister

79.—(1) A township shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the township road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the township treasurer that the statement of receipts and expenditures is correct and that it contains no item of expenditure whether for labour or materials that was not paid to the persons performing the work or supplying the materials in cash or by cheque of the township; and
- (d) a petition for the payment of the subsidy authorized by resolution of the council.

Amount of
subsidy

(2) Upon the receipt of the statement, declarations and petition, the Minister may direct payment to the township treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

Where rate
of subsidy
may be
varied

(3) Notwithstanding subsection 2, the Minister, having regard to the economic condition of the township and the adequacy of its plan of road improvement, may direct payment to the township treasurer out of the moneys appropriated therefor by the Legislature of such amount as he deems requisite,

- (a) in the case of a bridge or culvert, up to 100 per cent; and
- (b) in the case of any other road improvement, up to 80 per cent,

of the amount of the expenditure that is properly chargeable to road improvement.

(4) Expenditure in respect of which aid may be granted ^{Exclusions} under this section does not include,

- (a) any amount levied in the township for county road purposes; or
- (b) except with the consent of the Minister, any other road expenditure towards which a contribution has been paid or may be payable from any source. 1957, c. 43, s. 73.

80.—(1) A city or town in a provisional judicial district, ^{Contribution of city or town in a provisional judicial district to improvement of township roads} by by-law passed with the assent of at least two-thirds of the members of its council, may agree with a township to share the cost of construction or maintenance of any township road that leads or is adjacent to the city or town or which, by reason of the existence of the city or town, is subject to extraordinary traffic.

(2) Where the cost of construction or maintenance of a ^{How cost to be borne} township road is shared by a city or town under an agreement made under this section, the Minister may direct that there shall be paid to the township out of the moneys appropriated therefor by the Legislature such proportion of the expenditure made on such road as is fixed under this Part for expenditure on township roads in that township and the balance of the expenditure shall be shared equally by the township and the city or town. 1957, c. 43, s. 74.

81. The council of a township in which statute labour has ^{Different rates in summer resort or suburban areas} been abolished by by-law, and

- (a) in which subdivisions have been laid out; or
- (b) in which parts are used or occupied as summer resorts or are adjacent to a city,

may by by-law separate the subdivisions or parts for the purposes of taxation from the remainder of the township by defining the limits of the subdivisions or parts and in imposing the township rate for road purposes may impose and levy a higher rate upon the subdivisions or parts than upon the remainder of the township, but no such by-law has effect until it has been approved in writing by the Minister and the amount raised by increasing the rate shall not be included

in determining the expenditure of the township on which any subsidy may be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 43, s. 75.

PART X

CITY, TOWN AND VILLAGE ROADS

Submission
of by-law
covering
estimated
expenditure
R.S.O. 1960,
c. 260

82.—(1) Every city, town and village, except a city or separated town in a county other than an area municipality under *The Municipality of Metropolitan Toronto Act* that does not contribute towards the construction and maintenance of suburban roads, may submit a by-law covering the estimated expenditure on the construction and maintenance of its roads for the calendar year to the Minister for his approval not later than the 31st day of March of the year in which the expenditure is to be made, and no subsidy shall be granted to a city, town or village in respect of expenditure that has not been provided for by a by-law approved by the Minister. 1957, c. 43, s. 76.

Supplemen-
tary by-law

(2) A city, town or village may at any time submit to the Minister for his approval a by-law covering an estimated expenditure on road construction and maintenance supplementing the by-law submitted under subsection 1. 1958, c. 35, s. 8.

Annual
statement
to Minister

83.—(1) Where the Minister has approved a by-law to provide for expenditure under this Part, the city, town or village shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the engineer or other officer of the municipality who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the treasurer of the municipality that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the subsidy authorized by resolution of the council.

Payment
of subsidy

(2) Upon the receipt of the statement, declarations and petition, the Minister may direct payment to the treasurer

of the municipality out of the moneys appropriated therefor by the Legislature of an amount equal to,

- (a) in the case of a city or separated town, $33\frac{1}{3}$ per cent; and
- (b) in all other cases, 50 per cent,

of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

(3) Notwithstanding subsection 2, in the case of a town not being a separated town or of a village, the Minister, having regard to the economic condition of the town or village and the adequacy of its plan of road improvement, may direct payment to the treasurer of the town or village out of the moneys appropriated therefor by the Legislature of such amount as he deems requisite,

Where rate of subsidy may be varied

- (a) in the case of a bridge or culvert, up to 80 per cent; and
- (b) in the case of any other road improvement, up to 50 per cent,

of the amount of the expenditure that is properly chargeable to road improvement.

(4) Where the construction or maintenance of a road in a city, town or village that is a connecting link or extension of the King's Highway is carried out under an agreement made with the Minister under section 22, the expenditure made by the city, town or village on such road shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the agreement and is properly chargeable to road improvement under this Part. 1957, c. 43, s. 77.

In case of expenditure on connecting link of the King's Highway

84. Expenditures that are properly chargeable to road improvement include those made for any or all of the following purposes:

Expenditures eligible for subsidy

1. Opening a new road and acquiring the necessary land therefor.
2. Clearing a road of obstructions.
3. Widening, altering or diverting a road.
4. Subject to *The Public Service Works on Highways Act*, taking up, removing or changing the location of appliances or works placed on or under a road by an operating corporation.

R.S.O. 1960, c. 333

5. Constructing and maintaining bridges, culverts or other structures, other than sewers, incidental to the construction of a road.
6. Grading.
7. Constructing and maintaining an approved base for the road surface including the installing and maintaining of under-drainage therefor, other than sewers.
8. Constructing and maintaining any type of road surface.
9. Constructing and maintaining curbs, gutters and catch basins.
10. Clearing snow and applying chemicals or abrasives to icy surfaces.
11. Such purposes of road improvement as the Minister approves. 1957, c. 43, s. 78.

Opening or
constructing
road in
subdivision
not eligible

85. Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, the expenditures made on the opening or constructing of any road therein are not properly chargeable to road improvement under this Part unless the road is a main thoroughfare for traffic or is designed and laid out as such and is so designated by the Minister. 1957, c. 43, s. 79.

Expendi-
tures, how
provided for

86. Except with the consent of the Minister, no expenditures, other than those that are provided for entirely by aid granted under this Part and out of funds raised by a general rate levied upon all the rateable property in the municipality or by the issue of debentures to be retired by a general rate so levied, shall be included in the statement submitted under section 83. 1957, c. 43, s. 80.

Contrib-
ution of
county
under s. 61
may be in-
cluded in
statement
for subsidy

87. Notwithstanding section 86, any contribution made by a county under section 61 towards the construction and maintenance of roads, other than county roads or county road extensions or connecting links, in an urban municipality not separated from the county may be included in the statement submitted to the Minister under section 83 for the purpose of determining the grant payable to such urban municipality under this Part, and where such contribution is in the form of work carried out by the county, the value of such work as certified by the county road superintendent may be so included. 1957, c. 43, s. 81.

88. In the case of a city or separated town, the Minister may require that of the expenditure to be made under this Part so much as is necessary shall be made on the construction and maintenance of the roads that he designates as extensions or connecting links of the King's Highway. 1957, c. 43, s. 82.

King's
Highway
extension
or con-
necting link

89. Where under paragraph 3 of subsection 1 of section 468 of *The Municipal Act* a city, town or village grants aid to a township towards the construction or maintenance of a township road, the aid so granted is properly chargeable to road improvement and may be included in the statement of expenditures submitted to the Minister by the city, town or village under this Part. 1957, c. 43, s. 83.

Aid granted
to township
by city,
town or
village to be
subsidized
R.S.O. 1960,
c. 249

PART XI

DEVELOPMENT ROADS

90.—(1) The Minister may designate as a development road a road or proposed road under the jurisdiction and control of a municipality, other than a city, separated town, town or village, which because of the requirements of traffic he considers should be constructed, improved or maintained to a higher standard than is reasonable having regard to the economic situation of the municipality.

Designation
of develop-
ment roads

(2) The Minister and the municipality may enter into an agreement for the construction or maintenance of a development road designated under subsection 1, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost thereof as he deems requisite.

Construction
and main-
tenance
agreements

(3) A development road designated under subsection 1 remains under the jurisdiction and control of the municipality. 1959, c. 42, s. 2.

Road
remains
under
control of
municipality

PART XII

ROADS IN TERRITORY

WITHOUT MUNICIPAL ORGANIZATION

91.—(1) In this section,

Interpre-
tation

- (a) "cost of the work" includes the actual amount paid for materials and rental of machinery, the value of labour employed on the work, the salary of the secretary-treasurer of the road commissioners elected under *The Statute Labour Act*, and the sheriff's costs in connection with the sale of land for arrears of statute labour;

R.S.O. 1960,
c. 382

- (b) "value of the labour employed on the work" shall be computed on the basis of the actual time worked applied to the rates of wages prevailing in the locality in which the work is performed.

Arrange-
ments for
construction
or main-
tenance

(2) The Minister may arrange with the road commissioners elected under *The Statute Labour Act* or with a person who is the owner of land in territory without municipal organization for the construction or maintenance of a road therein, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he deems requisite.

Where in-
corporation
desirable
R.S.O. 1960,
c. 249

(3) Where the Minister deems it desirable that the inhabitants of any territory without municipal organization should become incorporated under *The Municipal Act*, the amount that may be paid out under this section in respect of a road in that territory shall not exceed 50 per cent of the value of the labour employed on the work. 1957, c. 43, s. 85.

PART XIII

GENERAL

Controlled-
access road
designation

92. Subject to the approval of the Board, a municipality may by by-law designate any new road established under section 459 of *The Municipal Act* as a controlled-access road.

Interpre-
tation

93.—(1) In this section, "road" includes an unopened road allowance.

Closing of
intersecting
municipal
roads

(2) Subject to the approval of the Board, a municipality may by by-law close a municipal road that intersects or runs into a controlled-access road designated under section 92.

Application
for approval

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the municipality within such time as the Board directs.

Powers of
Board

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it deems proper.

Appeal

(5) The municipality or any person, including a municipality or a local board thereof, that has filed particulars of a claim or objection may, with leave of the Court of Appeal,

appeal to that court from any order made under subsection 4, and subsections 4 to 6 of section 11 apply *mutatis mutandis* thereto.

(6) Upon the closing of a road in accordance with an order of approval, the municipality shall make due compensation to the owner of land injuriously affected by the closing and every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11 which subsections apply *mutatis mutandis*, but no claim by or on behalf of a person who has not filed particulars of his claim within the time directed by the Board under subsection 3 shall be allowed except by leave of the Board. 1957, c. 43, s. 87. Compensation

94.—(1) A municipality may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, gate or other structure or facility as a means of access to a controlled-access road designated under section 92 and may impose penalties for contravention of any such by-law. Private roads, etc., opening upon controlled-access road

(2) The municipality may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 92 in contravention of a by-law passed under subsection 1. Notice

(3) Every notice given under subsection 2 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof. Service of notice

(4) Where the person to whom notice is given under subsection 2 fails to comply with the notice within thirty days after its receipt, the municipality may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever is necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice. Failure to comply with notice

(5) Every person who fails to comply with a notice given under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for any subsequent offence. Offence

(6) Where a notice given under subsection 2 has been complied with, the municipality shall make due compensation to the owner of the land if the private road, entranceway, Compensation

gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 92 was constructed or used, as the case may be,

- (a) before the day on which the by-law designating the road as a controlled-access road became effective; or
- (b) in compliance with a by-law passed under subsection 1, in which case the making of compensation is subject to any provisions of such by-law.

Procedure

(7) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11 which subsections apply *mutatis mutandis*. 1957, c. 43, s. 88.

Authority of road superintendent with regard to drainage
R.S.O. 1960, cc. 109, 252

95. The road superintendent appointed by a road authority under this Act may, without any direction from the Minister or road authority by which he is appointed, initiate and carry out proceedings under *The Ditches and Watercourses Act* and may sign petitions under *The Municipal Drainage Act* for the purpose of procuring proper drainage for any road within the jurisdiction and control of the road authority, and he has authority to file or receive notices as owner in accordance with the procedure prescribed by such Acts. 1957, c. 43, s. 89.

Obtaining gravel for road purposes
R.S.O. 1960, c. 249

96.—(1) Notwithstanding *The Municipal Act*, a road superintendent may, without the passing of a by-law or resolution, apply to the owner of any gravel pit or gravel land for gravel for road purposes.

Application to state price offered

(2) The road superintendent shall state in the application the price per cubic yard or per acre of such amount of gravel as he requires.

Application to county judge to fix price

(3) If the owner does not, within three days after receiving the application, agree with the road superintendent to sell the gravel or the land and as to the price at which the same shall be sold, the road superintendent may, upon seven days notice in writing to the owner, apply to a judge of the county or district court of the county or district in which the gravel or the land is situate for an order fixing the price to be paid for the gravel or the land, and the judge upon the application and upon hearing such evidence as he deems necessary may fix the price per cubic yard or per acre to be paid for the gravel or the land and may order and direct that upon the payment or tendering of the price so fixed the road superintendent, by his servants or agents, may enter upon the lands and take the gravel so required.

Appeal

(4) An appeal lies from the order of the judge of the county court to the Court of Appeal. 1957, c. 43, s. 90.

97.—(1) While a work authorized by this Act is in progress on a road, other than the King's Highway, the road superintendent or a person authorized by him may close the road for such time as the road superintendent or such person, as the case may be, deems necessary. Closing road to traffic

(2) While a road is so closed to traffic, the municipality having jurisdiction and control of the road shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, and for the period during which the road is closed to traffic the alternative route is under the jurisdiction and control of that municipality. Alternative route to be provided

(3) While a road is so closed to traffic, the road superintendent or a person authorized by him shall protect it by erecting or causing to be erected at each end of the road so closed, and wherever an alternative route deviates from it, a barricade upon which a red light shall be exposed and kept burning continuously from sunset until sunrise and at such points shall put up a detour sign indicating the alternative route and containing a notice that the road is closed to traffic. Barricades

(4) Every person using a road closed to traffic in accordance with this section does so at his own risk and the municipality having jurisdiction and control of the road is not liable for any damage sustained by a person using a road so closed to traffic. No municipal liability

(5) Every person who without lawful authority uses a road so closed to traffic while it is protected in accordance with subsection 3, or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement. Offence

(6) This section applies to any road for which provision has been made under any Act for the construction, maintenance and control thereof by a commission appointed by the Lieutenant Governor in Council. 1957, c. 43, s. 91. Application of section to special cases

98. Where an engineer of the Department reports to the Minister that a municipal road is out of repair, the Minister may, after at least two months notice in writing to the municipality, direct the Department to undertake the work of putting the road in repair, and the cost of the work is chargeable to and is a debt due from the municipality to the Crown, and the Minister may direct that the cost shall be deducted from any sums of money payable to the municipality under this Act. 1957, c. 43, s. 92. Repair and maintenance of road by Department on default of municipality

Excavated
material

99. Notwithstanding any other Act, no earth, debris or excavated material shall be deposited within the limits of a road without permission in writing so to do from the road authority responsible for the maintenance of the road. 1957, c. 43, s. 93.

Local muni-
cipalities
may con-
struct
sidewalks,
etc.

100.—(1) A local municipality may construct a sidewalk or other improvement or service on a highway or road with the written consent of the authority having jurisdiction and control of the highway or road.

How cost
provided

(2) The cost of such a sidewalk, improvement or service may be met out of the general funds of the local municipality or out of funds of the authority having jurisdiction and control of the highway or road, or the work may be undertaken as a local improvement under *The Local Improvement Act*.

R.S.O. 1960,
c. 223

Local
municipality
to conform
to require-
ments and
be respon-
sible for
damage

(3) A local municipality when constructing such a sidewalk, improvement or service shall conform to any requirements or conditions imposed by the authority having jurisdiction and control of the highway or road, and is responsible for any injury or damage occasioned by the construction or presence of the sidewalk, improvement or service.

Construction
of sidewalk
or footpath

(4) A township may apply to the Minister for authority to construct a sidewalk or footpath on the King's Highway or a county road and the Minister may grant the authority, and upon completion of the work may approve thereof at his discretion, and, upon the approval being given, the township may apply to the Minister in the form prescribed by him for the payment to it out of the moneys appropriated therefor by the Legislature of an amount not exceeding 50 per cent of the cost of the work, and the Minister may authorize the payment. 1957, c. 43, s. 94.

Planting
trees

101. A municipality or suburban roads commission may plant trees on its roads, and the cost of the work shall be deemed to be part of the cost of maintaining the road. 1957, c. 43, s. 95.

Agreement
with owner
for removal

102.—(1) A road superintendent, with the approval of the road authority, may enter into an agreement with the owner of any land adjacent to a road under the jurisdiction and control of the road authority for the removal of any tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjoining the road and that may cause the drifting or accumulation of snow or may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road, and the agreement may provide for the amount of compensation to be paid to the owner for damages caused to him by reason of the removal.

(2) Where the road superintendent is of the opinion that a tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjacent to the road will cause the drifting or accumulation of snow or will injuriously affect the road or will obstruct the vision of pedestrians or drivers of vehicles on the road and he is unable to agree with the owner of the land for the removal of the same or as to the amount of compensation to be paid therefor, he may, with the approval of the road authority, apply to the judge of the county court of the county in which the land affected is situated for an order authorizing him to enter upon the land affected and remove any object with respect to which the application is made, and the judge, upon such notice to the owner of the land as he deems proper, may make such order and may fix the amount of compensation to be paid to the owner and give such directions as to costs as in his opinion are equitable.

Application
to judge for
order to
remove

(3) *The Judges' Orders Enforcement Act* applies to every application and order made under subsection 2.

Application
of R.S.O.
1960, c. 196

(4) A county or township may by by-law determine and fix the distance from the centre line of a road under its jurisdiction and control within which the owner of any lands adjacent to the road shall not plant or cause to be planted any tree, shrub, bush or hedge, or erect or cause to be erected any fence, sign board, gasoline pump, building or other structure that may cause the drifting or accumulation of snow or that may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road. 1957, c. 43, s. 96.

By-laws for
clearing
adjacent
land

103.—(1) A municipality, other than a city or separated town, with the approval of the Minister, may make an agreement with the road authority having jurisdiction and control of the King's Highway, a county road or a suburban road for the widening of the highway or road in the municipality, and may make a further agreement with the road authority and any municipality or commission interested in the highway or road and with any municipality, commission or company owning or operating a street railway or electric railway on the highway or road fixing the proportions in which the cost of the widening and of the removal or replacing or altering of the tracks of the street railway or electric railway consequent upon the widening shall be borne by the municipality, the road authority, any municipality or commission interested in the highway or road and by the municipality, commission or company owning or operating the street railway or electric railway.

Agreements
for widening

Apportion-
ing cost

(2) Where the parties to the proposed agreement are unable to agree as to the proportion in which each of them shall so contribute, the proportion shall be determined by the Board and the decision of the Board is final and conclusive and is not subject to any appeal.

By-law for
acquiring
land

(3) Subject to the terms of the agreement entered into with the road authority for the widening of the highway or road, the municipality may pass by-laws for acquiring by purchase or otherwise or for expropriating any land described in the agreement or necessary to carry out the provisions thereof, and *The Municipal Act* as to the acquiring, occupying or taking of land for municipal purposes applies to the acquiring, occupying or taking of land under the by-law.

R.S.O. 1960,
c. 249

Voluntary
contribu-
tions from
muni-
cipalities

(4) A county not having jurisdiction and control of the highway or road but through which the highway or road passes may agree to contribute to the cost of the widening of the highway or road, but nothing in this section renders it compulsory for the county to so contribute. 1957, c. 43 s. 97.

Aid to com-
missions
governing
certain
localities

104. A commission appointed under an Act of the Legislature for the purpose of exercising or carrying out in any particular locality powers elsewhere exercisable by a municipality with respect to the construction of roads has the like rights and powers and shall perform the like duties and is entitled to the same aid as a township under this Act. 1957, c. 43, s. 98.

Vouchers

105. Where a subsidy is applied for under this Act, vouchers covering all expenditures in respect of which the subsidy is applied for shall be furnished to the Minister in a form satisfactory to him and the Minister may require the production of any book, statement or other document respecting the subsidy. 1957, c. 43, s. 99.

Approval of
by-laws by
Minister

106. Any by-law that is submitted to the Minister for approval under this Act may be approved in whole, in part or subject to conditions and, where the by-law is approved in part or subject to conditions, the by-law has force and effect only as so approved. 1959, c. 42, s. 3.

Warrant

107.—(1) If resistance or opposition is made to the Minister or any person authorized by him entering upon or taking possession of land under this Act or exercising any other power in respect of land under this Act, the Minister may apply to a judge of the Supreme Court or to the judge of the county or district court of the county or district in which the land is situate for a warrant (Form 1) directing

the sheriff of the county or district to put down such resistance or opposition and to put the Minister in possession of the land or to take such steps as may be necessary to enable the Minister to exercise such power.

(2) The judge shall in writing appoint a time and place ^{Hearing} for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes.

(3) On proof of such resistance or opposition and of the ^{Issue of} interest of the Crown in such land or of the intention of the Minister to exercise a power in respect thereof, the judge may ^{warrant} issue the warrant.

(4) The sheriff shall forthwith execute the warrant and ^{Execution} make a return to the judge of the execution thereof. 1957, ^{of warrant} c. 43, s. 100.

108. The cost of material, labour, special engineering or ^{How cost} other services, land and property or options thereon, plant, ^{to be} machinery and equipment and the repair and maintenance of ^{provided} plant, machinery or equipment and all expenditure in or about any work undertaken by the Minister under this Act or incidental thereto, or contracts therefor, shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 43, s. 101.

109.—(1) The Highway Reserve Account in the Consolidated Revenue Fund is continued under the name of the ^{Highway} Highway Construction Account and such amounts as are ^{Construction} appropriated by the Legislature for that account shall be ^{Account} credited to that account.

(2) The Minister may pay out of the Highway Construction ^{Idem} Account expenditures incurred in the construction of highways. 1957, c. 43, s. 102.

110. Notwithstanding anything in any other Act, all fines ^{Disposition} and other penalties recovered for offences under this Act ^{of fines} committed on or with respect to a highway under the jurisdiction and control of the Department shall be paid to the Department. 1957, c. 43, s. 103.

FORM 1

WARRANT

(Sec. 107)

PROVINCE OF ONTARIO

COUNTY (or DISTRICT) OF

IN THE MATTER OF
The Highway Improvement Act
AND IN THE MATTER OF

.....

To

SHERIFF, ETC.:

WHEREAS resistance or opposition has been made to the Minister of Highways or a person authorized by him entering upon or taking possession of (*or as the case may be*) the land described as follows:

AND WHEREAS the proof required by section 107 of *The Highway Improvement Act* has been made before me;

THIS IS THEREFORE to command you in Her Majesty's name forthwith to put down such resistance or opposition and put the Minister of Highways in possession of the said land (*or*, to put down such resistance or opposition and take such steps as may be necessary to enable the Minister of Highways to), and to make a return to me of your execution hereof.

GIVEN under my hand this day of, 19.....

.....
JUDGE

1957, c. 43, Form 1.

CHAPTER 172

The Highway Traffic Act

1.—(1) In this Act,

Interpre-
tation

1. “built-up area” means the territory contiguous to a highway not within a city, town, village or police village where,

- i. not less than 50 per cent of the frontage upon one side of the highway for a distance of not less than 600 feet is occupied by dwellings, buildings used for business purposes, schools or churches, or
- ii. not less than 50 per cent of the frontage upon both sides of the highway for a distance of not less than 300 feet is occupied by dwellings, buildings used for business purposes, schools or churches, or
- iii. not more than 600 feet of the highway separates any territory described in subparagraph i or ii from any other territory described in subparagraph i or ii,

and signs are displayed as required by the regulations; R.S.O. 1950, c. 167, s. 1 (1), cl. (a); 1953, c. 46, s. 1; 1954, c. 35, s. 1.

2. “chauffeur” means any person who operates a motor vehicle and receives compensation therefor;
3. “commercial motor vehicle” means any motor vehicle having permanently attached thereto a truck or delivery body and includes ambulances, hearses, casket wagons, fire apparatus, police patrols, motor buses and tractors used for hauling purposes on the highways;
4. “crosswalk” means,
 - i. that part of a highway at an intersection that is included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the roadway, or

- ii. any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs or by lines or other markings on the surface; R.S.O. 1950, c. 167, s. 1 (1), cls. (b-d).
- 5. "Department" means the Department of Transport; 1958, c. 36, s. 1 (1).
- 6. "farm tractor" means a self-propelled vehicle designed and used primarily as a farm implement for drawing ploughs, mowing-machines and other implements of husbandry and not designed or used for carrying a load;
- 7. "Fund" means the Unsatisfied Judgment Fund established under Part XIII;
- 8. "garage" means every place or premises where motor vehicles are received for housing, storage or repairs for compensation;
- 9. "gross weight" means the combined weight of vehicle and load;
- 10. "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
- 11. "intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways that join one another at an angle, whether or not one highway crosses the other; R.S.O. 1950, c. 167, s. 1 (1), cls. (f-k).
- 12. "King's Highway" includes the secondary highways and tertiary roads designated under *The Highway Improvement Act*; 1960, c. 45, s. 1.
- 13. "Minister" means the Minister of Transport; 1958, c. 36, s. 1 (2).
- 14. "motorcycle" means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a bicycle with a motor attached and a motor scooter; 1951, c. 34, s. 1.
- 15. "motor vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the

R.S.O. 1960,
c. 171

cars of electric or steam railways, or other motor vehicles running only upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of this Act; R.S.O. 1950, c. 167, s. 1 (1), cl. (m); 1958, c. 36, s. 1 (3).

16. "official sign" means a sign approved by the Department;
17. "operator" means any person other than a chauffeur who operates a motor vehicle on a highway;
18. "peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, justice of the peace, jailer or keeper of a prison, and a police officer, constable, bailiff, or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process, or any officer appointed for enforcing or carrying out the provisions of this Act;
19. "public vehicle" has the same meaning as in *The Public Vehicles Act*; R.S.O. 1960, c. 337
20. "Registrar" means the Registrar of Motor Vehicles appointed under this Act;
21. "regulations" means the regulations made under this Act;
22. "road-building machine" means a self-propelled vehicle designed and used primarily in connection with the building or maintaining of highways and not designed or used for carrying a load; R.S.O. 1950, c. 167, s. 1 (1), cls. (n-t).
23. "roadway" means the part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively; 1958, c. 36, s. 1 (4), *part*.
24. "safety glass" means any product composed of glass so manufactured, fabricated or treated as substantially to prevent shattering and flying of the glass when struck or broken, or such other or similar product as may be approved by the Department;
25. "solid tires" means all tires other than pneumatic tires; R.S.O. 1950, c. 167, s. 1 (1), cls. (u, v).

26. "through highway" means any highway or part of a highway designated as such by the Minister or by by-law of a municipality approved by the Department, and every such highway shall be marked by a stop sign or yield right-of-way sign in compliance with the regulations of the Department; 1957, c. 44, s. 1, *part*.
27. "trailer" means any vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, another motor vehicle or any device or apparatus not designed to transport persons or property, temporarily drawn, propelled, or moved upon such highway, and except a side car attached to a motorcycle, and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn; R.S.O. 1950, c. 167, s. 1 (1), cl. (*w*); 1956, c. 29, s. 1.
28. "urban area" means the territory contiguous to a highway not within a city, town, village, police village or built-up area that is occupied by dwellings, buildings used for business purposes, schools or churches at intervals of less than 100 feet for a distance of a quarter of a mile or more and that is marked by signs displayed as required by the regulations; 1958, c. 36, s. 1 (4), *part*.
29. "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled, or driven by any kind of power, including muscular power, but not including the cars of electric or steam railways running only upon rails. R.S.O. 1950, c. 167, s. 1 (1), cl. (*x*).

Suspension
or cancella-
tion of
licence or
permit

(2) Where in this Act the Minister or a magistrate or other official is authorized or directed to suspend or cancel the licence or permit of any person, and such person is the holder of both a licence and a permit issued under this Act, every such authority extends to both licence and permit and every such direction may in the discretion of the Minister, magistrate or other officer be made to apply to both licence and permit. R.S.O. 1950, c. 167, s. 1 (2).

PART I

ADMINISTRATION

Powers and
duties of
Department

2. Where by this Act powers are conferred or duties are imposed upon the Department, such powers may be exercised and such duties discharged by the Minister. 1951, c. 34, s. 2.

3.—(1) There shall be a Registrar of Motor Vehicles ^{Registrar of Motor Vehicles} appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 167, s. 2 (1).

(2) The Registrar shall act under the instructions of the Minister and Deputy Minister and has general supervision over all matters relating to highway traffic within Ontario, and shall perform such duties as are assigned to him by this Act, by the Lieutenant Governor in Council, or by the Minister or Deputy Minister. R.S.O. 1950, c. 167, s. 2. (2); 1958, c. 36, s. 2. ^{Duties}

(3) The Minister may authorize the Registrar to exercise ^{Delegation to Registrar} and discharge in his place any of the powers conferred or the duties imposed upon him under this Act. 1951, c. 34, s. 3.

4. There shall be a Deputy Registrar appointed by the ^{Deputy Registrar} Lieutenant Governor in Council who shall have all the powers and may perform all the duties of the Registrar. 1958, c. 36, s. 3.

5. The Lieutenant Governor in Council may make regula- ^{Regulations re fees} tions,

- (a) providing for the payment of fees for the issue, renewal, replacement or transfer of permits, licences and number plates under this Act and prescribing the amount of such fees;
- (b) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Department pursuant to this Act or any statement containing information from the records of the Department and prescribing the amount of such fees. 1957, c. 44, s. 2; 1958, c. 36, s. 3.

PART II

REGISTRATION AND PERMITS

6.—(1) The owner of every motor vehicle or trailer shall register it with the Department before driving or operating ^{Registration of motor vehicles} or causing it to be driven or operated upon a highway and shall pay to the Department a fee for the registration of such motor vehicle or trailer, and for the number plates therefor and, on failure to do so, is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent

offence to a fine of not less than \$50 and not more than \$200, and is also liable to imprisonment for a term of not more than thirty days.

Permits for vehicles

(2) The Department shall issue for each motor vehicle or trailer so registered a numbered permit stating that the motor vehicle or trailer is registered in accordance with this Act, and shall cause the name of the owner, his address and the number of his permit, to be entered in a book to be kept for that purpose. R.S.O. 1950, c. 167, s. 3 (1, 2).

Minister may refuse to accept registration or cancel permit

(3) The Minister may, in his discretion, refuse to accept the registration of, or cancel any permit issued for, any motor vehicle or trailer that is to be used or is used,

R.S.O. 1960, c. 337

(a) as a public vehicle within the meaning of *The Public Vehicles Act*; or

R.S.O. 1960, c. 319

(b) as a public commercial vehicle within the meaning of *The Public Commercial Vehicles Act*,

unless the owner of such motor vehicle or trailer is in possession of an operating licence as required by such Acts. 1953, c. 46, s. 2.

Local issuance of motor vehicle permits

(4) The Minister may give authority to any person to issue permits for motor vehicles and may define the duties and powers of such person, and, where the salary is not otherwise provided, may authorize and fix the fee to be retained by the person so authorized for each permit issued.

Administration of declarations and affidavits

(5) Declarations or affidavits in connection with the issuance of permits and licences under this Act or required by the Department in that regard may be taken before any person having authority to administer oaths or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Regulations re registration

(6) The Lieutenant Governor in Council may make regulations regarding the renewal and transfer of such permits, the payment of fees therefor, the amount and time of payment of such fees, and also the registration and operation of motor vehicles or trailers owned by manufacturers or dealers and not kept by them for private use. R.S.O. 1950, c. 167, s. 3 (3-5).

Penalty for false statement

7.—(1) Every person who knowingly makes any false statement of fact in any application, declaration, affidavit or paper-writing required by this Act or by the regulations or by the Department, in addition to any other penalty or punishment to which he may be liable, is liable, for the first offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period

of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 4 (1); 1954, c. 35, s. 2.

(2) Where an owner changes his address as given under subsection 2 of section 6, he shall within six days send by registered mail or cause to be filed in the Department his change of address, and every subsequent change of address, and on failure to do so is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months.

(3) No permit shall be issued for a motor vehicle where the manufacturer's serial number or similar identifying mark has been obliterated or defaced until the owner has filed with the Department satisfactory proof of the ownership of the vehicle, and, if known, the reason for the obliteration or defacement, and, if satisfied as to the statements made, the Minister may grant permission to cut, impress, emboss, or attach permanently to the vehicle a special identification number or mark which thereafter shall be deemed sufficient for the purpose of registration of the vehicle. R.S.O. 1950, c. 167, s. 4 (2, 3).

8.—(1) Every motor vehicle other than a motorcycle, while being driven on a highway, shall have attached to and exposed on the front and back thereof, in a conspicuous position, a number plate furnished by the Department showing in plain figures the number of the permit issued for the current year. R.S.O. 1950, c. 167, s. 5 (1); 1951, c. 34, s. 4 (1).

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200, and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months.

(3) The number plate on the front shall be as far forward and as high from the ground as may be necessary to render it

distinctly visible, and the number plate on the back shall be so placed that the lower edge thereof shall not be lower than the body of the motor vehicle; provided that this subsection, so far as it relates to the position of the number plate on the back shall not apply to motor trucks or other motor vehicles for the delivery of goods.

Penalty

(4) Every person who contravenes any of the provisions of subsection 3 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 5 (2-4).

Number
plate on
motor-
cycle

(5) A motorcycle while being driven on a highway shall have exposed on the front and back thereof a number plate furnished by the Department showing in plain figures, not less than two inches in height, the number of the permit of such motorcycle, and the number plate on the front shall show the number of the permit issued for the current year on both sides and shall be fixed so that the number is plainly visible from either side of the motorcycle. R.S.O. 1950, c. 167, s. 5 (5); 1951, c. 34, s. 4 (2).

Rear
number
plate on
trailer

(6) Every trailer while being drawn on a highway shall have exposed on the back thereof, in a conspicuous position, a number plate furnished by the Department showing in plain figures the number of the permit issued for the current year.

Penalty

(7) Every person who contravenes any of the provisions of subsection 5 or 6 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 5 (6, 7).

Violations
as to
number
plates

9.—(1) Every person who,

- (a) defaces or alters any number plate furnished by the Department;
- (b) uses or permits the use of a defaced or altered number plate or a number plate issued by the Department for another motor vehicle or trailer;
- (c) without the authority of the owner removes a number plate from a motor vehicle or trailer;

- (d) uses or permits the use of any number plate upon a motor vehicle or trailer except the one issued by the Department for the motor vehicle or trailer; or
- (e) does not, within six days, forward a notice on the prescribed form to the Department of the sale or purchase by or to him of a motor vehicle or trailer for which a permit has been issued,

is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a term of not more than six months.

(2) Every number plate furnished by the Department under this Act is the property of the Crown and shall be returned to the Department when required by the Department, and any person failing to so return the number plate without reasonable excuse is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days, and the Minister may also for such failure refuse to issue a licence or permit to such person.

Number plates to be property of Crown

R.S.O. 1950, c. 167, s. 6.

10.—(1) No number other than that upon the number plate furnished by the Department shall be exposed on any part of a motor vehicle or trailer in such a position or manner as to confuse the identity of the number plate.

No other numbers to be exposed

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days.

Penalty

(3) The number plates shall be kept free from dirt and obstruction and shall be so affixed that the numbers thereon may be at all times plainly visible, and the view thereof shall not be obscured or obstructed by spare tires, bumper bars, or by any part of the motor vehicle or trailer or attachments thereto, or by the load carried.

Numbers to be kept clean

Penalty

(4) Every person who contravenes any of the provisions of subsection 3 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 7.

Improper
number
plates

11. A peace officer who has reason to believe that a motor vehicle or trailer is carrying number plates that were not issued for it, or which although issued for it were obtained by false pretenses, may take possession of such number plates and retain them until the facts as to the carrying of such number plates have been determined. R.S.O. 1950, c. 167, s. 8.

Exceptions
as to
residents
of other
provinces

12.—(1) Sections 6 and 8 and subsection 1 of section 10 do not apply to a motor vehicle owned by a person who does not reside or carry on business in Ontario for more than six consecutive months in each year, if the owner thereof is a resident of some other province of Canada, and has complied with the provisions of the law of the province in which he resides as to registration of a motor vehicle and the display of the registration number thereon, and provided the province of residence grants similar exemptions and privileges with respect to motor vehicles registered under the laws of and owned by residents of Ontario.

Exceptions
as to
residents
of foreign
countries

(2) Sections 6 and 8 and subsection 1 of section 10 do not apply to a motor vehicle owned by a person who does not reside or carry on business in Ontario for more than three months in any one year if the owner thereof is a resident of a country or state that grants similar exemptions and privileges with respect to motor vehicles registered under the laws of and owned by residents of Ontario and has complied with the provisions of the law of the country or state in which he resides as to registration of a motor vehicle and the display of registration plates thereon; but this subsection does not apply to commercial motor vehicles.

Regulations

(3) The Lieutenant Governor in Council may make regulations providing for the temporary exemption from registration of commercial vehicles or vehicles used by non-residents doing business in Ontario. R.S.O. 1950, c. 167, s. 9.

PART III

LICENCES

OPERATOR, CHAUFFEUR, DRIVING INSTRUCTOR

Operator's
licence

13.—(1) No person other than one holding a chauffeur's licence shall operate or drive a motor vehicle on a highway

unless he holds an operator's licence issued to him under this section, and no person who is the owner or in possession or control of a motor vehicle shall permit any person who is not the holder of a chauffeur's or operator's licence to operate or drive the motor vehicle.

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days. ^{Penalty}

(3) Operators' licences may be issued by the Minister to such persons for such times and upon such terms and conditions and subject to such regulations and restrictions as the Lieutenant Governor in Council may prescribe. R.S.O. 1950, c. 167, s. 75. ^{Terms of licence}

(4) The holder of an operator's licence shall submit to such examination in respect of the operation of a motor vehicle as and when required by the Minister and upon completing such examination his licence may be confirmed, suspended, cancelled or re-issued in accordance with subsection 3. 1960, c. 45, s. 19. ^{Re-examination}

14.—(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall produce it when demanded by a constable or by an officer appointed for carrying out the provisions of this Act. R.S.O. 1950, c. 167, s. 76 (1). ^{As to carrying licences and production on demand}

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days. R.S.O. 1950, c. 167, s. 76 (2); 1951, c. 34, s. 9. ^{Penalty}

(3) A person convicted of an offence under this Act, if he holds an operator's licence, shall forthwith produce his licence for the purpose of endorsement. ^{Production of licence}

(4) Every person who contravenes any of the provisions of subsection 3 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more ^{Penalty}

than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 76 (3, 4).

Exemption
as to non-
residents

15. Sections 13 and 16 and any regulations made thereunder do not apply to residents of the other provinces of Canada who do not reside or carry on business in Ontario for more than six consecutive months in any one year, nor to residents of other countries or states who do not reside in Ontario for more than three months in any one year, provided such persons have complied with the provisions of the law of the province, country or state in which they reside as to the licensing of motor vehicle operators or chauffeurs. R.S.O. 1950, c. 167, s. 78; 1958, c. 36, s. 20.

Chauffeur's
licence

16.—(1) No person shall operate or drive a motor vehicle on a highway as a chauffeur unless he is licensed so to do, and no person shall employ anyone to drive a motor vehicle who is not a licensed chauffeur.

Penalty

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months.

Terms of
licence

(3) Chauffeurs' licences may be issued by the Minister to such persons for such time and upon such terms and subject to such regulations and restrictions as the Lieutenant Governor in Council may prescribe. R.S.O. 1950, c. 167, s. 21 (1-3).

Certificate
from
examiner
and chief
constable
of municipi-
pality

(4) A licence shall not be issued to a chauffeur unless he files with the Department certificates that he is a fit and proper person to be so licensed, having regard to his character, physical fitness, ability to drive and knowledge of the rules of the road, and one of such certificates touching the applicant's character shall be furnished by the clerk, chief constable or magistrate of the municipality in which the applicant resides, and one other certificate touching the applicant's physical fitness, ability to drive and knowledge of the rules of the road shall be furnished by an examiner appointed for that purpose by the Minister and residing in the municipality in which the applicant resides. R.S.O. 1950, c. 167, s. 21 (4); 1953, c. 46, s. 6.

Chief con-
stable may
delegate
authority
under sub-
section 4

(5) The chief constable of a municipality may authorize any constable on the police force of the municipality to furnish certificates under subsection 4. 1958, c. 36, s. 7.

(6) If there is no such examiner residing in the municipality, ^{Where no examiner in municipality} the certificate may be signed by the examiner residing in the municipality nearest to that in which the applicant resides.

(7) Before a person is appointed an examiner, he shall pass ^{Examination} such an examination or furnish such evidence of his qualifications as the Minister may require. R.S.O. 1950, c. 167, s. 21 (5, 6).

(8) The holder of a chauffeur's licence shall submit to such ^{Re-examination} examination in respect of the operation of a motor vehicle as and when required by the Minister and upon completing such examination his licence may be confirmed, suspended, cancelled or re-issued in accordance with subsection 3. 1960, c. 45, s. 8.

17.—(1) Every chauffeur shall carry his chauffeur's licence ^{Production of licence} with him at all times while he is in charge of a motor vehicle and shall produce it when demanded by a constable or by an officer appointed for carrying out the provisions of this Act. R.S.O. 1950, c. 167, s. 23 (1), *amended*.

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days. ^{Penalty}

(3) A person convicted of an offence under this Act if he holds a chauffeur's licence shall forthwith produce the licence ^{Production of licence} for the purpose of endorsement.

(4) Every person who contravenes any of the provisions of subsection 3 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 23 (2-4). ^{Penalty}

18.—(1) No person under the age of sixteen years shall ^{Drivers under 16 prohibited} drive or operate a motor vehicle or farm tractor on a highway. R.S.O. 1950, c. 167, s. 52 (1); 1953, c. 46, s. 13 (1).

(2) No person shall employ or permit anyone under the ^{Employment of drivers under 16 prohibited} age of sixteen years to drive or operate a motor vehicle or farm tractor on a highway. R.S.O. 1950, c. 167, s. 52 (2); 1953, c. 46, s. 13 (2).

Exception

(3) Subsections 1 and 2 do not apply in respect of the driving or operating of a farm tractor directly across a highway.

Penalty

(4) Every person who contravenes any of the provisions of subsection 1 or 2 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50. R.S.O. 1950, c. 167, s. 52 (3, 4).

Prohibition
as to letting
or hiring

19.—(1) No person shall hire or let for hire a motor vehicle unless the person by whom the motor vehicle is to be driven is a person licensed to drive a motor vehicle as required by this Act.

Non-
resident's
licence

(2) Subsection 1 does not apply to a resident of any other province of Canada who does not reside or carry on business in Ontario for more than six consecutive months in any one year or to a resident of a country or state that grants similar exemptions and privileges to residents of Ontario, who does not reside in Ontario for more than three consecutive months in any one year, provided such person is the holder of a chauffeur's or operator's licence issued by the province, country or state in which he resides.

Production
of licence
when hiring
motor
vehicle

(3) Every person, whether a resident of Ontario or not, hiring a motor vehicle shall produce his operator's or chauffeur's licence for the inspection of the person from whom the vehicle is being hired.

Penalty

(4) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 53.

Suspension
for driving
while
intoxicated
1953-54,
c. 51 (Can.)

20. Subject to section 22, the licence of a person who is convicted of an offence under section 222 of the *Criminal Code* (Canada) is thereupon and hereby suspended for a period of,

- (a) upon the first offence, six months, but where injury to or the death of any person or damage to property occurred in connection with the offence, one year;
- (b) upon any subsequent offence, one year, but where injury to or the death of any person or damage to property occurred in connection with the offence, two years;

provided that, if an order is made under subsection 1 of section 225 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period. 1953-54, c. 51 (Can.)
1955, c. 29, s. 9; 1956, c. 29, s. 11; 1957, c. 44, s. 10.

21. Subject to section 22, the licence of a person who is convicted of an offence under subsection 1 of section 221 or section 223 of the *Criminal Code* (Canada) is thereupon and hereby suspended for a period of, Suspension for driving while ability impaired

- (a) upon the first offence, three months, but where injury to or the death of any person or damage to property occurred in connection with the offence, six months;
- (b) upon any subsequent offence, six months, but where injury to or the death of any person or damage to property occurred in connection with the offence, one year;

provided that, if an order is made under subsection 1 of section 225 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period. 1958, c. 36, s. 15.

22.—(1) Where the licence of a person is suspended for a period of one year under clause *a* of section 20 or of six months under clause *a* of section 21 by reason only of damage to property in connection with the offence, the magistrate may, if in his opinion the licence is essential to the licensee in carrying on the occupation by which he earns his living, recommend to the Minister that a restricted licence be issued to such person and upon such recommendation the Minister may issue a restricted licence to such person subject to such conditions as he may deem proper. 1957, c. 44, s. 11, *part*;
1958, c. 36, s. 16 (1). Restricted licence

(2) Notwithstanding sections 13 and 16, a restricted licence issued under subsection 1 authorizes the person to whom it is issued to operate or drive a motor vehicle for the last six-month period of the suspension under clause *a* of section 20 or for the last three-month period of the suspension under clause *a* of section 21, as the case may be. 1957, c. 44, s. 11, *part*; 1958, c. 36, s. 16 (2). Term of restricted licence

(3) Every person to whom a restricted licence is issued who operates or drives a motor vehicle in contravention of the conditions of the licence is guilty of an offence and liable to a fine of not less than \$25 and not more than \$100, and in addition the licence shall be cancelled. 1957, c. 44, s. 11, *part*. Penalty

Endorse-
ment of
conviction
on licence
1953-54,
o. 51 (Can.)

23.—(1) The judge, magistrate or justice of the peace by whom a person is convicted of a contravention of this Act or of the *Criminal Code* (Canada) involving the use of a motor vehicle shall cause particulars of the conviction to be endorsed on the chauffeur's licence or operator's licence, as the case may be, and, if the licence or permit is suspended by the judge, magistrate or justice of the peace or by the operation of this Act, shall take and forward to the Registrar such licence or permit. 1957, c. 44, s. 5.

Endorse-
ment to be
prima facie
evidence

(2) Any such endorsement signed by the convicting justice is *prima facie* evidence of such conviction. R.S.O. 1950, c. 167, s. 24 (2).

When
chauffeur
may be dis-
qualified

24. A magistrate or justice of the peace by whom a person is convicted of a contravention of this Act, if the person convicted is required to hold an operator's licence or a chauffeur's licence and does not hold such licence, may declare him disqualified to hold such a licence for such time as the magistrate or justice of the peace thinks fit and shall so report with the certificate of the conviction to the Minister. R.S.O. 1950, c. 167, ss. 22, 77.

Power to
cancel
permit or
licence and
to prohibit
driving
R.S.O. 1960,
co. 337, 319

25.—(1) The Minister may, at any time for misconduct or contravention of the provisions of this Act, *The Public Vehicles Act* or *The Public Commercial Vehicles Act* or of any regulation thereunder by an owner, operator or chauffeur of a motor vehicle or for any reason that he may deem sufficient, suspend or cancel any permit or licence, and no further or other licence or permit shall be issued to such owner, operator or chauffeur during such suspension or, in the case of a cancellation, until the Minister approves, and the Minister may also for such misconduct or contravention or reason prohibit any person from driving a motor vehicle for such period as he may deem advisable and every such person who drives a motor vehicle during the prohibited period is liable to a fine of not more than \$500. R.S.O. 1950, c. 167, s. 25 (1); 1953, c. 46, s. 7.

Unlawful
possession
of permit

(2) Every person whose permit has been suspended or cancelled and who, while prohibited from having a motor vehicle registered in his name, applies for or procures the issue to him or has in his possession a permit issued to him is liable to a fine of not less than \$25 and not more than \$100 and to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 167, s. 25 (2); 1958, c. 36, s. 8.

Unlawful
possession
of licence

(3) Every person whose licence has been suspended or cancelled and who, while prohibited from driving a motor vehicle, applies for or procures the issue to him or has in his possession a licence is liable to a fine of not less than \$25 and

not more than \$100 and to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 167, s. 25 (3).

26. Every person who operates a motor vehicle the permit for which is under suspension or has been cancelled is liable, for a first offence to a fine of not less than \$25 and not more than \$100 and is also liable to imprisonment for a term of not more than thirty days; and for any subsequent offence to a fine of not less than \$100 and not more than \$500 and is also liable to imprisonment for a term of not more than six months. R.S.O. 1950, c. 167, s. 68 (1); 1956, c. 29, s. 14.

Penalty for operating vehicle when permit suspended or cancelled

27. Where by or under the provisions of this Act a permit or licence is suspended and the person to whom the suspension applies is not the holder of a permit or licence, as the case may be, such person shall be deemed for all the purposes of this Act to be a person whose permit or licence, as the case may be, has been suspended. R.S.O. 1950, c. 167, s. 69.

Where person whose permit or licence suspended does not hold permit or licence

28. If a person whose licence has been suspended enters an appeal against his conviction and there is filed proof of financial responsibility under section 111, the suspension does not apply unless the conviction is sustained on appeal. 1957, c. 44, s. 14. *part.*

Suspension on appeal

29. The Lieutenant Governor in Council may make regulations providing for a demerit point system for drivers of motor vehicles and under such system may provide for the cancellation and suspension of licences and may require the attendance of any driver before any official of the Department to show cause why his licence should not be cancelled or suspended. 1958, c. 36, s. 26.

Demerit point system

30.—(1) In this section, "driving instructor" means a person who teaches persons to operate motor vehicles and receives compensation therefor.

Driving instructor

(2) The Lieutenant Governor in Council may make regulations licensing, regulating and governing driving instructors and the teaching of persons to operate motor vehicles.

Regulations

(3) Where there is a conflict between this section and the regulations and a by-law of a municipal council or board of police commissioners regulating or governing driving instructors, this Act and the regulations prevail. 1958, c. 36, s. 27.

Conflict between section and by-law

PART IV

GARAGE AND STORAGE LICENCES

31.—(1) No person shall store or deal in motor vehicles, or conduct what is known as a garage business, parking station, parking lot or used car lot or the wrecking or dismantling

Garage, storage, etc., licences

of vehicles without having been licensed so to do by the Department in respect of each separate premises used by him for the purpose of such business, but this section does not apply to a temporary parking lot that is being operated for a period of not more than two consecutive weeks. R.S.O. 1950, c. 167, s. 26 (1); 1960, c. 45, s. 9 (1).

Fee

(2) The fee for the licence shall be such as may be fixed from time to time by the Lieutenant Governor in Council on the recommendation of the Minister. R.S.O. 1950, c. 167, s. 26 (2).

**Penalty for
conducting
business
without
licence**

(3) Every person who stores or deals in motor vehicles or conducts a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles without a licence is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second or any subsequent offence to a fine of not less than \$50 and not more than \$200, and for the third or any subsequent offence is also liable to imprisonment for a term of not more than three months. R.S.O. 1950, c. 167, s. 26 (3); 1960, c. 45, s. 9 (2).

**Right of
entry and
inspection**

(4) Any constable or any officer appointed for carrying out the provisions of this Part may enter into any place where motor vehicles or bicycles are stored or dealt in, or into any garage, parking station, parking lot or used car lot or premises used for the wrecking or dismantling of vehicles required to be licensed, and make such investigation and inspection as he thinks proper. R.S.O. 1950, c. 167, s. 26 (4); 1960, c. 45, s. 9 (3).

**Penalty for
inter-
ference**

(5) Every person who obstructs, molests or interferes with any such constable or officer in the performance of his duty under subsection 4 is liable, for the first offence to a fine of not less than \$25 and not more than \$100; for the second offence to a fine of not less than \$100 and not more than \$300; and for any subsequent offence to a fine of not less than \$300 and not more than \$500 and is also liable to imprisonment for a term of not more than six months. R.S.O. 1950, c. 167, s. 26 (5).

**Minister
may sus-
pend or can-
cel licence**

(6) The Minister may suspend or cancel the licence issued for a garage business, parking station, parking lot or used car lot or premises used for the wrecking or dismantling of vehicles for misconduct or for non-compliance with or infraction of any of the provisions of this Act or of the regulations by the holder of such licence or by any of his employees or for any other reason appearing to him to be sufficient. R.S.O. 1950, c. 167, s. 26 (6); 1960, c. 45, s. 9 (4).

Regulations

(7) The Lieutenant Governor in Council, upon the recommendation of the Minister, may make regulations controlling and governing the conduct of a garage business, parking sta-

tion, parking lot or used car lot or the wrecking or dismantling of vehicles. R.S.O. 1950, c. 167, s. 26 (7); 1960, c. 45, s. 9 (5).

32.—(1) All persons who buy, sell, wreck or otherwise deal in second-hand motor vehicles or bicycles shall keep a correct record of all motor vehicles and bicycles bought, sold or wrecked and of such information as will enable such motor vehicles and bicycles to be readily identified, and shall transmit within six days to the Department, on forms furnished by the Department, a statement of each motor vehicle bought, sold or wrecked by them and such information with reference thereto as may be required by the Department.

Record of second-hand vehicles bought, sold, etc.

(2) No person shall buy, sell, wreck or otherwise deal with any motor vehicle or bicycle where the manufacturer's serial number or similar identifying mark has been obliterated or defaced or is not readily recognizable.

Prohibition as to buying where number obliterated

(3) No person shall deface or remove the manufacturer's serial number or identifying mark from a motor vehicle or from the engine thereof or from a bicycle.

Defacing serial number

(4) Where any motor vehicle is placed in the possession of a person who repairs, buys, sells, wrecks or stores motor vehicles or conducts what is known as a garage business, parking station, parking lot or used car lot and the same remains in his possession for more than two weeks without good reason, such person shall forthwith, upon the expiration of such period of two weeks, make a report thereof to the Department.

Report to Department as to cars stored or parked

(5) If a motor vehicle that shows evidence of having been involved in a serious accident or having been struck by a bullet is brought into a garage, parking station, parking lot, used car lot or repair shop, the person in charge of the garage, parking station, parking lot, used car lot or repair shop shall forthwith report the same to the nearest provincial or municipal police officer, giving the name and address of the owner or operator and also the permit number and a description of the vehicle.

Report as to damaged or bullet-marked cars

(6) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 167, s. 27.

Penalty

PART V

EQUIPMENT

33.—(1) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise, every motor vehicle shall carry three lighted lamps in a conspicuous posi-

Lamps

tion, one on each side of the front which shall cast a white, green or amber coloured light only, and one on the back of the vehicle which shall cast from its face a red light only, except in the case of a motorcycle without a side car, which shall carry one lamp on the front which shall cast a white light only and one on the back of the vehicle which shall cast from its face a red light only, and any lamp so used shall be clearly visible at a distance of at least 500 feet from the front or rear, as the case may be.

Reflector
required
on new
motor
vehicles

(2) No person shall sell, offer or expose for sale a new motor vehicle manufactured after the 1st day of January, 1962, other than a commercial motor vehicle, unless there is affixed to the rear thereof and placed in such a position as to reflect the light from the headlamps of a motor vehicle approaching from the rear a red reflector approved by the Department, or red reflective material covering a surface of not less than 16 square inches.

Driving
lights

(3) Lamps on the front of a motor vehicle shall be so constructed, located, arranged and adjusted that when lighted as required by subsection 1 they produce under normal atmospheric conditions and on a level road a driving light sufficient to render clearly discernible to the operator of the motor vehicle any person or vehicle on the highway within a distance of 300 feet ahead of the motor vehicle.

Lighted
streets

(4) Subsection 3 does not apply to a motor vehicle parked on a highway and subsections 1, 6, 9 and 10 do not apply to a motor vehicle parked on a highway upon which the speed limit is not greater than 30 miles per hour and which is so lighted by the means of any system of street or highway lighting that the vehicle is clearly discernible within a distance of 200 feet.

Strength of
front lamps

(5) No motor vehicle shall carry on the front thereof more than four lighted lamps that project a beam having an intensity of over 300 candle-power.

Clearance
lamps
required
on wide
vehicles

(6) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise, every commercial motor vehicle and every trailer having a width at any part in excess of 80 inches shall carry, in addition to the lamps required by subsection 1, two clearance lamps, one of which shall be located at the front of the vehicle and shall display a green or amber light, and the other of which shall be located at the rear of the vehicle and shall display a red light, and the Department may by regulation permit a reflector, approved by the Department, to be displayed in lieu of a clearance lamp on the rear of a vehicle, and any lamp or reflector so used shall be clearly visible at a distance of at least 500 feet from the front or rear, as the case may be, and shall be affixed within six inches of the extreme left side of the vehicle.

(7) No person shall sell, offer or expose for sale a new motor vehicle manufactured after the 1st day of January, 1961, other than a commercial motor vehicle, having a width in excess of 80 inches unless it is equipped with clearance lamps as prescribed in subsection 6.

Sale of new motor vehicles over 80 inches in width without clearance lamps prohibited

(8) Every person who contravenes subsection 2 or 7 is liable to a fine of not less than \$50 and not more than \$300.

Penalty

(9) When on a highway outside a city, town or village at any time from one-half hour after sunset to one-half hour before sunrise, every commercial motor vehicle or combination of a commercial motor vehicle and a trailer having a length in excess of 30 feet or a width in excess of 80 inches shall carry three lamps displaying green or amber lights at the front, except in the case of a public vehicle which shall display amber lights at the front, and three lamps displaying red lights at the rear and the lights of each colour shall be evenly placed not less than six nor more than twelve inches apart along a horizontal line as near the top of the commercial motor vehicle or combination of a commercial motor vehicle and a trailer as the permanent structure permits and shall be visible for distances of 500 feet from the front and rear respectively of the commercial motor vehicle or combination of a commercial motor vehicle and a trailer.

Identification lamps

(10) When on a highway outside a city, town or village at any time from one half-hour after sunset to one-half hour before sunrise, every motor vehicle or combination of vehicles having a length in excess of 20 feet shall carry not less than four side marker lamps, one of which shall be located on each side of the vehicle or combination of vehicles near the front and shall display a green or amber light and one of which shall be located on each side of the vehicle or combination of vehicles near the rear and shall display a red light and each of which lights shall be visible for a distance of 500 feet from the side of the vehicle or combination of vehicles upon which it is located; provided that a vehicle or combination of vehicles may carry four reflectors approved by the Department in lieu of the side marker lamps required by this section; and provided further that, if the clearance lamps upon the left side of any vehicle or combination of vehicles display lights visible for a distance of 500 feet from the left side of the vehicle or combination of vehicles, it is not necessary to carry side marker lamps as required by this subsection on the left side of the vehicle.

Side marker lamps

(11) Every person who contravenes subsection 1, 3, 5, 6, 9 or 10 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his

Penalty

licence or permit may be suspended for a period of not more than sixty days.

Red light
in front

(12) In the case of an ambulance, fire or police department vehicle or public utility emergency vehicle, the lamps on the front may cast a red light only or such other colour of light as may be designated by a by-law of the municipality in which the vehicle is operated, approved by the Department, but no other motor vehicle shall carry on the front thereof any lamp that casts a red light.

Vehicles of
volunteer
fire fighters
R.S.O. 1960,
c. 145

(13) A volunteer fire fighter under *The Fire Departments Act* may carry on his motor vehicle a lamp not exceeding 4 inches in diameter displaying an amber light showing the letters "V.F.F.", which lamps shall be illuminated only when such motor vehicle is proceeding to a fire or other emergency and no other motor vehicle shall carry any such lamp.

Bicycles
and
tricycles,
lights on,
etc.

(14) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise, every bicycle or tricycle shall carry on the front thereof a white or amber lighted lamp and on the back thereof a red lighted lamp or reflector approved by the Department, and in addition there shall be placed on the front forks thereof white reflective material, and on the back thereof red reflective material covering a surface of not less than ten inches in length and one inch in width.

Penalty

(15) Every person who contravenes subsection 14 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25.

Rear lamps
to illuminate
number
plate

(16) The lamp on the back of a motor vehicle or trailer shall be of at least three candle-power and shall be so placed that it will illuminate at any time from one-half hour after sunset to one-half hour before sunrise the numbers on the number plate, or, if provision is made on the number plate or on any attachment furnished or required by the Department for affixing such lamp, it shall be affixed in the position or space provided, and such lamp shall face to the rear and reflect on the number plate a white light only.

Parking
lights

(17) A motor vehicle, other than a commercial motor vehicle, while standing upon a highway at such times as lights are required by this section for the vehicle may, in lieu of the lighting equipment specified in this section, show one light carried on the left side of the vehicle in such a manner as to be clearly visible to the front and rear for a distance of at least 200 feet and to show white to the front and red to the rear of the vehicle; provided that such light shall not be displayed while the motor vehicle is in motion.

(18) The Lieutenant Governor in Council may make regulations, Regulations as to lights on vehicles

- (a) prescribing the type and maximum strength of lights that shall be carried by vehicles, and regulating the location, direction, focus and use of such lights;
- (b) regulating or prohibiting the use of lights on vehicles that automatically produce intermittent flashes of light.

(19) No motor vehicle shall be equipped with more than one spotlamp and every lighted spotlamp shall be so directed, upon approaching or upon the approach of another vehicle, that no part of the high intensity portion of the beam from such lamp will be directed to the left of the prolongation of the extreme left side, nor more than 100 feet ahead, of the vehicle to which it is attached. Spotlamps

(20) Every traction engine shall, at any time from one-half hour after sunset to one-half hour before sunrise, carry a lamp in a conspicuous place in front which shall cast a white or green light only and one on the rear of the engine or of any vehicle that may be attached to it which shall cast from its face a red light only. Lamps to be carried on engine

(21) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise, every trailer and every object or contrivance drawn by a vehicle shall carry on the back thereof one lighted lamp which shall cast from its face a red light only. Light on back of trailer, etc.

(22) When on a highway at any time from one-half hour after sunset to one-half hour before sunrise, every vehicle, and every object or contrivance drawn by a vehicle, having a width at any part in excess of 96 inches, shall carry at the rear two lamps displaying red lights or two red reflectors, one of which shall be affixed as nearly as possible to the extreme left side and one as nearly as possible to the extreme right side of the vehicle, and such lamps or reflectors shall be clearly visible at a distance of at least 500 feet from the rear of the vehicle. Lights on vehicles, objects and contrivances over 96 inches in width

(23) Every person who contravenes subsection 16, 17, 19, 20, 21 or 22 or the regulations made under subsection 18 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. Penalty

Lights on
all vehicles

(24) Subject to subsection 26, every vehicle other than a motor vehicle or a bicycle or tricycle, when on a highway at any time from one-half hour after sunset to one-half hour before sunrise, shall carry in a conspicuous position on the left side thereof a lighted lamp showing white to the front and red to the rear or a lighted lamp showing white to the front and a lighted lamp showing red to the rear, and any lamp so used shall be clearly visible at a distance of at least 500 feet from the front and from the rear of the vehicle.

Lights on
farm
tractors

(25) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system, when on a highway at any time from one half-hour after sunset to one-half hour before sunrise, shall carry the lighted lamps required for motor vehicles under subsection 1.

Reflectors
in certain
cases

(26) The Department may by regulation permit a reflector approved by the Department to be displayed in lieu of a lighted lamp on vehicles commonly used for conveying flammable materials or vehicles that are structurally unsuitable for carrying lighted lamps.

Penalty

(27) Every person who contravenes subsection 24 or 25 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25.

Signalling
devices
required on
new motor
vehicles

(28) No person shall sell a new motor vehicle, other than a motorcycle, unless it is equipped with mechanical or electrical signalling devices that comply with subsections 4 and 5 of section 69.

Signalling
devices
required on
trucks,
buses, etc.

(29) Every motor vehicle or combination of motor vehicle and trailer having a width at any part in excess of 80 inches or having a length in excess of 20 feet shall be equipped with mechanical or electrical signalling devices that comply with subsections 4 and 5 of section 69. 1960, c. 45, s. 2.

Visibility
of lights

(30) Where any light is required by any provision of this Act to be visible for a specified distance, such requirement shall be deemed to apply during the times indicated in such provision upon level ground and under normal atmospheric conditions. R.S.O. 1950, c. 167, s. 1 (3).

Vehicles
with right
hand drive

34. Every vehicle that is equipped with a right hand drive shall, unless it is equipped with a mechanical or electrical signal device as described in subsection 4 of section 69, have prominently displayed on the rear thereof, in bold face

letters of not less than two inches in height and of a colour which is in contrast to that of the vehicle, the words,

“RIGHT HAND DRIVE VEHICLE”.

R.S.O. 1950, c. 167, s. 11; 1951, c. 34, s. 6.

35.—(1) Every motor vehicle, other than a motorcycle, ^{Brakes, two systems required} when operated on a highway shall be equipped with at least two braking systems, each with a separate means of application and effective on at least two wheels, one of which shall be adequate to stop the vehicle as required by regulations made by the Department and the other of which shall be adequate to hold the vehicle stationary. 1956, c. 29, s. 3.

(2) Every motorcycle shall be equipped with at least one ^{Motorcycle} brake.

(3) Every trailer or semi-trailer having a gross weight of ^{Trailer or semi-trailer} 3,000 pounds or more shall be equipped with brakes adequate to stop and to hold the vehicle.

(4) All such brakes shall be maintained in good working ^{Condition of brakes} order and shall conform to regulations not inconsistent with this section to be made by the Department.

(5) Any constable or any officer appointed for carrying ^{Inspection} out the provisions of this Act may at any time inspect or cause an inspection to be made of the brakes on any motor vehicle on the highway, and may, if the brakes do not conform to the regulations of the Department, require the driver of the motor vehicle to proceed forthwith to make or have such brakes made to comply with such regulations.

(6) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 12 (2-6). ^{Penalty}

36.—(1) No person shall sell or offer for sale hydraulic ^{Brake fluid} brake fluid, for use in vehicles upon a highway, that does not comply with the standards and specifications prescribed by the regulations or in containers not marked in compliance with the regulations.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards and specifications of hydraulic brake fluid or any type or class thereof for use in vehicles;
- (b) providing for the identification and labelling of containers used for hydraulic brake fluid or any type or class thereof. 1960, c. 45, s. 3.

Windshield
wiper,
mirror

37.—(1) Every motor vehicle other than a motorcycle shall be equipped with,

- (a) a device for cleaning rain, snow and other moisture from the windshield so constructed as to be controlled or operated by the chauffeur or operator;
- (b) a mirror securely attached to the vehicle and placed in such a position as to afford the chauffeur or operator a clearly reflected view of the roadway in the rear, or of any vehicle approaching from the rear. R.S.O. 1950, c. 167, s. 13 (1).

Mudguards

(2) Every motor vehicle and every trailer shall be equipped with mudguards or fenders or other device adequate to reduce effectively the wheel spray or splash of water from the roadway to the rear thereof, unless adequate protection is afforded by the body of the motor vehicle or trailer or by a trailer drawn by the motor vehicle. R.S.O. 1950, c. 167, s. 13 (2); 1960, c. 45, s. 4.

Exception

(3) Subsection 2 does not apply to motor vehicles or trailers in an unfinished condition while proceeding to a works for completion.

Penalty

(4) Every person who contravenes any of the provisions of subsection 1 or 2 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days. R.S.O. 1950, c. 167, s. 13 (3, 4).

Require-
ments as
to tires

38.—(1) All self-propelled vehicles other than traction engines, and all trailers having a gross weight in excess of two tons, shall be equipped with rubber tires or tires of some composition equally resilient, and a vehicle shall not be operated on any highway with a tire that is broken or defective in such a manner as to cause additional impact or pounding on or cutting of the highway, and in the case of motor vehicles and trailers equipped with solid rubber tires there shall be at least one and one-quarter inches of rubber between the wheel rim and the roadway.

(2) No vehicle shall be operated or object moved over or upon any highway with any flange, rib, clamp or other device attached to its wheels, or made a part thereof, which will injure the highway. Flanges and clamps

(3) No person driving a vehicle drawn by a horse or other animal and used for carrying articles of burden, goods, wares or merchandise shall when descending a grade on a highway lock any wheel of such vehicle except with the device commonly known as a lock-shoe. Lock-shoes

(4) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. R.S.O. 1950, c. 167, s. 14. Penalty

39.—(1) In this section, “rebuild” means to make or impose a new tread or new surface or to otherwise alter the surface of a used tire so that it will resemble a new tire, by cutting into or adding rubber to the surface thereof, or by a combination of both. Rebuilt tires, interpretation

(2) No person shall rebuild any tire designed for use upon a motor vehicle unless he causes it to be indicated in letters of not less than one-half inch in height, clearly embossed upon or imposed or cut into the outside surface of each wall of the tire, that it has been rebuilt. to be marked

(3) No person shall sell, offer or expose for sale, or have in his possession with intent to sell, any tire designed for use upon a motor vehicle that has been rebuilt unless it is indicated in letters of not less than one-half inch in height, clearly embossed upon or imposed or cut into the outside surface of each wall of the tire, that it has been rebuilt. Idem

(4) Every person who contravenes any of the provisions of subsection 2 or 3 is liable, for the first offence to a fine of not more than \$25; for a second offence to a fine of not more than \$50; and for any subsequent offence to a fine of not more than \$100. R.S.O. 1950, c. 167, s. 15. Penalty

40.—(1) No person shall sell any new motor vehicle nor shall any new motor vehicle be registered with the Department unless such vehicle is equipped with safety glass wherever glass is used in doors, windows and windshields. Motor vehicles to be equipped with safety glass

(2) No person shall install glass other than safety glass in the door, window or windshield of any motor vehicle. R.S.O. 1950, c. 167, s. 16. Safety glass

Signs,
objects,
etc.,
obstructing
view
prohibited

41.—(1) No person shall drive a motor vehicle upon a highway,

- (a) with any sign, poster or other non-transparent material or object placed on the windshield or on any window of such motor vehicle; or
- (b) with any object placed in, hung on or attached to such motor vehicle,

in such manner as will obstruct the driver's view of the highway or any intersecting highway.

Signs, etc.,
required by
Act or
regulations

(2) This section does not prevent the use of signs, markers or equipment required under this Act or the regulations. 1959, c. 43, s. 1.

Muffler

42.—(1) Every motor vehicle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, and no person shall use a muffler cut-out, by-pass or similar device upon a motor vehicle. R.S.O. 1950, c. 167, s. 17 (1).

Fumes from
engine

(2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. 1958, c. 36, s. 5.

Unnecessary
noise

(3) A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, and an operator or chauffeur of any motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle, nor shall such operator or chauffeur at any time, by cutting out the muffler or otherwise, cause the motor vehicle to make any unnecessary noise, but this subsection does not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call.

Alarm bell
to be
sounded

(4) Every motor vehicle, bicycle and tricycle shall be equipped with an alarm bell, gong or horn, which shall be kept in good working order and sounded whenever it is reasonably necessary to notify pedestrians or others of its approach.

Prohibition
as to use of
siren horn

(5) No vehicle other than an ambulance, fire or police department vehicle, public utility emergency vehicle or vehicle operated by the Department shall be equipped with a siren horn or a device producing a sound which so nearly resembles that produced by a siren horn as to deceive or confuse.

Penalty

(6) Every person who contravenes any of the provisions of subsection 1, 3, 4 or 5 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subse-

quent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days. R.S.O. 1950, c. 167, s. 17 (2-5).

43.—(1) Every person travelling on a highway with a sleigh or sled drawn by a horse or other animal shall have at least two bells attached to the harness or to the sleigh or sled in such a manner as to give ample warning sound. ^{Sleigh bells}

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25. R.S.O. 1950, c. 167, s. 18. ^{Penalty}

44. No person shall drive on a highway a motor vehicle that is equipped with a television receiving set. 1953, c. 46, s. 4. ^{Television in motor vehicle}

45.—(1) No motor vehicle, other than a motor vehicle in which there is a person licensed to operate a motor vehicle on a highway, trailer or other object or device shall be drawn by a motor vehicle or farm tractor on a highway unless there are two separate means of attachment so constructed and attached that the failure of one such means will not permit the motor vehicle, trailer, object or device being drawn to become detached; but this subsection does not apply to a trailer so designed and used that part of its own weight and of its own load rests upon or is carried by another vehicle or to a trailer or other object or device when drawn directly across a highway by a farm tractor. 1960, c. 45, s. 5. ^{Attachments required when vehicle drawn on highway}

(2) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100, and in addition his permit may be suspended for a period not exceeding thirty days; and for any subsequent offence to a fine of not less than \$20 and not more than \$200, and in addition his permit may be suspended for a period of not more than six months. 1959, c. 43, s. 2. ^{Penalty}

46. The Lieutenant Governor in Council may make regulations requiring any type or class of commercial motor vehicle or trailer to be equipped with rear bumpers and prescribing the location and means of attachment of such bumpers and prescribing the specifications for such bumpers. 1954, c. 35, s. 4. ^{Regulations re bumpers}

Examina-
tion of
vehicle

47.—(1) Every constable and every officer appointed for the purpose of carrying out the provisions of this Act may require the driver of any motor vehicle to submit such motor vehicle, together with its equipment and any trailer attached thereto, to such examination and tests as the constable or officer may deem expedient.

Use of
unsafe
vehicle
prohibited

(2) Where any such vehicle, equipment or trailer is found to be in a dangerous or unsafe condition, the constable or officer making the examination or tests may require the driver of the vehicle to proceed to have the vehicle, equipment or trailer placed in a safe condition and may order the vehicle or trailer to be removed from the highway and may prohibit the operation of the vehicle or trailer on the highway until the vehicle, equipment or trailer has been placed in a safe condition. R.S.O. 1950, c. 167, s. 20.

Penalty for
driving un-
safe vehicle

48. No person shall drive or operate or permit the driving or operation upon a highway of a vehicle that is in such a dangerous or unsafe condition as to endanger the driver or operator or any occupant thereof, or any person upon the highway. 1953, c. 46, s. 5.

Certificate
of mechanical
fitness

49.—(1) When a used motor vehicle is sold by a dealer in used motor vehicles, the dealer shall deliver to the purchaser at the time of the sale a certificate of mechanical fitness signed by the dealer stating that the motor vehicle is, or is not, in a safe condition to be operated on a highway, and such certificate shall be on a separate form from any bill of sale or other document.

Penalty

(2) Every dealer who contravenes any of the provisions of subsection 1 or who makes a false statement in any such certificate is liable to a fine of not less than \$50 and not more than \$300. 1957, c. 44, s. 4.

Form

(3) The Lieutenant Governor in Council may make regulations prescribing the form and content of the certificate of mechanical fitness required under subsection 1. 1960, c. 45, s. 6.

Regulations
re
accessories
and
ornaments

50. The Lieutenant Governor in Council may make regulations,

- (a) requiring the use of any accessory, or any type or class thereof, on vehicles, regulating the use thereof and prescribing the specifications thereof;
- (b) prohibiting the use on vehicles of any accessory or ornament, or any type or class thereof;
- (c) prohibiting the sale or offering for sale of any accessory or ornament, or any type or class thereof, that is designed for use on vehicles. 1960, c. 45, s. 7.

51.—(1) Every commercial motor vehicle shall have attached to or painted on both sides of the vehicle in a clearly visible position a sign showing the name of the owner, but that the Department may by regulation designate any vehicle or classes of vehicles to which this subsection does not apply. 1957, c. 44, s. 8.

Name of owner on commercial vehicles

(2) Every commercial motor vehicle and every trailer shall have securely attached to the back thereof, within six inches of the left side of the body in such a position as to reflect the light from the headlights of a vehicle approaching from the rear, a red reflector approved by the Department. R.S.O. 1950, c. 167, s. 40 (2).

Reflector

(3) Every road-building machine when on a highway shall have attached to or painted on both sides of the machine in a clearly visible position a sign showing the name and address of the owner. 1960, c. 45, s. 14.

Name and address of owner on road-building machine

(4) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not more than \$5; for the second offence to a fine of not less than \$5 and not more than \$10; and for any subsequent offence to a fine of not less than \$10 and not more than \$25, and in addition his licence or permit may be suspended for a period of not more than thirty days. R.S.O. 1950, c. 167, s. 40 (3).

Penalty

PART VI

WEIGHT, LOAD AND SIZE

52.—(1) In this section,

Interpretation

(a) "Class A Highway" means a highway designated as such by the Minister;

(b) "Class B Highway" means a highway not designated by the Minister as a "Class A Highway". R.S.O. 1950, c. 167, s. 34 (1).

(2) Unless a special permit has been issued pursuant to section 53, no vehicle having a gross weight in excess of the following shall be moved upon wheels, rollers or otherwise over or upon a Class A Highway:

Restriction on weight of vehicle and load on Class A Highway

1. The gross weight of a vehicle other than those mentioned in clauses *b*, *c* and *d* shall not exceed 28,000 pounds and the weight upon one axle shall not exceed 18,000 pounds, and if axles are spaced less than eight feet apart the weight on one axle shall not exceed 14,000 pounds.

As to weight of other vehicles

As to
weight
upon three
axles

2. The gross weight of a vehicle of three axles so designed that under any loading conditions the ratio of the weight on the middle axle to the weight on the rear axle remains constant shall not exceed 40,000 pounds and the weight on one axle shall not exceed 16,000 pounds.

As to
weight of
conversion-
unit and
two-axle
vehicle

3. When a conversion-unit consisting of a single axle designed to convert a two-axle vehicle into a three-axle vehicle as described in paragraph 2 is used with or attached to a two-axle vehicle, the gross weight of such converted two-axle vehicle shall not exceed 40,000 pounds.

As to
weight on
non-pneu-
matic tires

4. The gross weight of a vehicle equipped wholly or in part with non-pneumatic tires shall not exceed 16,000 pounds and the weight upon one axle shall not exceed 12,000 pounds.

As to weigh
of two-
axle semi-
trailers

5. The gross weight of a semi-trailer with two axles so designed that under any loading conditions the weight on both axles remains constant shall not exceed 30,000 pounds. 1955, c. 29, s. 5, *part*; 1956, c. 29, s. 6 (1); 1958, c. 36, s. 11.

Restrictions
as to Class
B Highway

- (3) Unless a special permit has been issued pursuant to section 53, no vehicle having a gross weight in excess of the following shall be moved upon wheels, rollers or otherwise over or upon a Class B Highway:

As to
weight of
vehicle
and load

1. The gross weight of a vehicle shall not exceed 22,000 pounds and the weight upon one axle shall not exceed 16,000 pounds, and if axles are spaced less than eight feet apart the weight on one axle shall not exceed 10,000 pounds. 1955, c. 29, s. 5, *part*.

Restrictions
as to
weight on
tires, etc.

- (4) No vehicle, object or contrivance for moving loads that is equipped with tires of less than six inches in width shall be operated or moved upon or over any highway, the weight of which, or the gross weight of which, exceeds 500 pounds upon any inch in width of tire, roller, wheel or other object, and no vehicle equipped with tires of six inches or more in width, the weight or gross weight of which exceeds 600 pounds upon any inch in width of the tire, shall be so operated without first obtaining a permit as provided by section 53.

Width
of tires

- (5) The Lieutenant Governor in Council may make regulations prescribing the minimum width of tires with which any vehicle operated upon a highway shall be equipped.

How width
ascertained

- (6) For the purpose of this section, the width of solid rubber or pneumatic tires shall be as stamped thereon by the manu-

facturer and approved by the Department. R.S.O. 1950, c. 167, s. 34 (4-6).

(7) Every person who contravenes any of the provisions of this section or any by-law passed or regulation made under this section is liable, for the first offence to a fine of not less than \$25 and not more than \$50; for the second offence to a fine of not less than \$50 and not more than \$100, and in addition his licence or permit may be suspended for a period not exceeding thirty days; and for any subsequent offence to a fine of not less than \$100 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 34 (7); 1956, c. 29, s. 6 (2). Penalty

(8) The municipal corporation or other authority having jurisdiction over a bridge may by by-law approved by the Department make regulations limiting the gross weight of any vehicle or combination of vehicles or any class thereof passing over such bridge and notice of the limit of the weight fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge. Limiting weight of vehicle on bridge

(9) The Lieutenant Governor in Council may make regulations limiting the gross weight of any vehicle or combination of vehicles or any class thereof passing over a bridge forming part of a provincial highway or a highway in territory without municipal organization and the requirements of subsection 8 with respect to the posting up of notice apply thereto. 1956, c. 29, s. 6 (3). Weight of vehicles passing over bridge, regulations

53.—(1) The municipal corporation or other authority having jurisdiction over the highway may, upon application in writing, grant a permit for the moving of heavy vehicles, loads, objects or structures in excess of the limits prescribed by section 52 or 58. Permits

(2) Such permit may be general or may limit the time and the particular highway that may be used, and may contain any special conditions or provisions that may be deemed necessary for the protection of the highway from injury, and the municipal corporation or other authority may require a bond sufficient to cover the cost of repairing such possible injury to the highway. Permits, general or limited

(3) The council of any municipality may, by by-law, provide that such permit may be issued by any officer of the corporation named therein. Who may issue

(4) In the case of a vehicle for which a permit is required under this section in order to pass over a highway or highways under the jurisdiction of two or more municipalities or other Issue of permit by Department

authorities, the permit so to do may be issued by the Department, which permit is in lieu of the several permits to be otherwise obtained from the municipal corporations or other authorities, and the permit may limit the time and the particular highway or highways that may be used, and may contain any special conditions or provisions that may be deemed necessary to protect such highways from injury, and the Department may require a bond sufficient to cover the cost of repairing such possible injury to the highway.

Responsibility for damages caused to highway

(5) The owner, driver, operator or mover of any such vehicle, object or contrivance who has obtained the permit mentioned in this section is nevertheless responsible for all damages that may be caused to the highway by reason of the driving, operating or moving of any such vehicle, object or contrivance. R.S.O. 1950, c. 167, s. 35.

Penalty

(6) Every person to whom a permit has been issued under this section who operates or permits the operation of a vehicle contrary to any of the conditions of such permit is liable to a fine of not less than \$50 and not more than \$500, and in addition the permit for the vehicle concerned issued under section 6 may be suspended for a period of not more than six months. 1956, c. 29, s. 7.

Prohibition as to carrying load in excess of permit
R.S.O. 1960, c. 337

54.—(1) Subject to subsection 1 of section 16 of *The Public Vehicles Act*, no motor vehicle or trailer having a permit issued under this Act, the fee for which is based upon the weight of the vehicle and load, shall at any time when on a highway carry a load in excess of that for which the permit was issued as stated upon the permit, and for which the fee therefor was estimated. R.S.O. 1950, c. 167, s. 36 (1).

Production of permit

(2) The permit issued for a commercial motor vehicle and for every trailer drawn by it, or a true copy thereof, shall, whenever such vehicle is on a highway, be carried by the driver thereof or placed in some readily accessible position in the vehicle and shall be produced when demanded by a constable or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*. 1960, c. 45, s. 12.

R.S.O. 1960, c. 319

Surrender of permit

(3) Subsection 2 does not apply when a permit has been surrendered for transfer of registration or when such surrender is required by law.

Weight of load during March and April

(4) During the months of March and April, commercial motor vehicles and trailers, other than public vehicles, operated over or upon any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council, or upon any other highway not within a city or separated town, shall not be loaded in excess of the following limits without obtaining a permit as provided by section 53:

1. A vehicle equipped wholly or in part with solid tires shall not be loaded in excess of one-half the carrying capacity as registered with the Department.
2. A vehicle equipped wholly with pneumatic tires, having a carrying capacity registered with the Department of three tons and not more than six tons, shall not be loaded in excess of three tons.
3. A vehicle equipped wholly with pneumatic tires and having a registered carrying capacity in excess of six tons shall not be loaded in excess of one-half the capacity registered with the Department.

(5) During the months of March and April, a vehicle other than a motor vehicle, or trailer, operated over or upon any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council, or upon any other highway not within a city or separated town, and having a carrying capacity exceeding one ton, shall not be loaded in excess of 250 pounds upon any inch in width of tire without obtaining a permit as provided by section 53.

Weight of
load during
March and
April

(6) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months.

Penalty

(7) The council of a city or separated town may, by by-law, declare the provisions of subsections 4, 5 and 6 to be in force in respect of highways within the city or separated town.

Application
to cities and
separated
towns

(8) The municipal corporation or other authority having jurisdiction over any highway may declare the provisions of subsections 4, 5 and 6 to extend and apply to highways under its jurisdiction during any period of the year or that the provisions of subsection 4 and 5 do not apply to any or all highways under its jurisdiction; but a by-law of a municipality passed under this subsection does not take effect until it has received the approval of the Minister.

Extension
of period by
municipality
or other
authority

(9) In the case of highways under the jurisdiction of the Department and highways in territory without municipal organization, the Lieutenant Governor in Council may, upon the recommendation of the Minister, declare the provisions of

Extension
of period by
Lieutenant
Governor
in Council

subsections 4, 5 and 6 to extend and apply during any period of the year. R.S.O. 1950, c. 167, s. 36 (3-9).

Power of
officer to
have load
weighed

55.—(1) Any constable or any officer appointed for carrying out the provisions of this Act, having reason to believe that the weight of a vehicle and load is in excess of that permitted by this Act or in excess of that authorized under the permit issued for the vehicle, may weigh the same either by means of portable or stationary scales and may require that such vehicle be driven to the nearest scales if they are within a distance of ten miles and, where it is found that the vehicle is carrying an excessive load, the constable or officer may require the driver to forthwith remove so much of the load as is necessary to bring it within the weight so permitted or authorized. R.S.O. 1950, c. 167, s. 37 (1); 1953, c. 46, s. 8.

Penalty
on driver

(2) Every driver who, when so required to proceed to a weighing machine, refuses or fails to do so is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 37 (2).

Production
of inventory
showing
weight of
vehicle
and load

(3) When a weighing machine capable of weighing a vehicle is distant more than ten miles from the vehicle, the driver of the vehicle, in lieu of proceeding to a weighing machine, shall produce forthwith an inventory showing the true weight of the vehicle and the goods or load thereon, verified in writing by the owner of the vehicle or by a person authorized in writing by the owner to make such verification. 1960, c. 45, s. 13.

Weighing
device

(4) In lieu of proceeding to a weighing machine, the weight of the load may be determined by a portable weighing device provided by the officer, and it is the duty of the driver of the vehicle to facilitate the weighing of the vehicle and load by such device.

Penalty

(5) Every person who contravenes any of the provisions of subsection 3 or 4 is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days.

(6) For the purposes of this section,

Interpre-
tation

(a) a combination of vehicles consisting of a motor vehicle and semi-trailer shall be deemed to be one vehicle; and

(b) "semi-trailer" means any trailer that is so designed that, when operated, the forward part of its body or chassis rests upon the body or chassis of the towing vehicle. R.S.O. 1950, c. 167, s. 37 (4-6).

56.—(1) Every vehicle carrying a load that overhangs the rear of the vehicle to the extent of five feet or more shall display upon such overhanging load at the extreme rear end thereof at any time from one-half hour after sunset to one-half hour before sunrise a red light, and at all other times a red flag or a red wooden or metal sign sufficient to indicate the projection of such load. R.S.O. 1950, c. 167, s. 38 (1), *amended*.

Over-
hanging
loads

(2) Every commercial motor vehicle and every trailer shall be loaded in such a manner that no portion of the load may become dislodged or fall from the commercial motor vehicle or trailer during transit. R.S.O. 1950, c. 167, s. 38 (2).

Commercial
vehicle, how
to be
loaded

(3) Every person who contravenes any of the provisions of subsection 1 or 2 is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100; and for any subsequent offence to a fine of not less than \$20 and not more than \$200, and in addition his licence or permit may be suspended for a period of not more than sixty days. 1959, c. 43, s. 4.

Penalty

57.—(1) The Lieutenant Governor in Council may make regulations classifying or defining explosives or dangerous articles and regulating or prohibiting the transportation of any explosives or dangerous articles. 1953, c. 46, s. 9.

Regulations
re carriage
of explo-
sives, etc.

(2) Every person who contravenes any of the provisions of the regulations made under this section is liable to a fine of not less than \$25 and not more than \$250, or to imprisonment for a term of not more than three months, or to both. R.S.O. 1950, c. 167, s. 39 (2).

Penalty

58.—(1) No vehicle, including load or contents, shall have a greater width than 96 inches, except traction engines or threshing machines which may have a total width of 110 inches, and except loads of loose fodder.

Width of
vehicle

(2) No vehicle, other than a public vehicle or a semi-trailer as defined in clause *b* of subsection 6 of section 55, including load or contents, shall exceed the length of 33 feet and no combination of vehicles, including load or contents, coupled together shall exceed the total length of 50 feet.

Length of
vehicle or
combination
of vehicles

Length of
public
vehicle

(3) No public vehicle, including load or contents, shall exceed the length of 35 feet. R.S.O. 1950, c. 167, s. 19 (1-3).

Height of
vehicle

(4) No vehicle, including load or contents, shall have a greater height than 13 feet 6 inches. 1958, c. 36, s. 6.

Penalty

(5) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100, and in addition his permit may be suspended for a period not exceeding thirty days; and for any subsequent offence to a fine of not less than \$20 and not more than \$200, and in addition his permit may be suspended for a period of not more than six months. 1959, c. 43, s. 2.

PART VII

RATE OF SPEED

Rate of
speed:

59.—(1) No person shall drive a motor vehicle at a greater rate of speed than,

(a) 50 miles per hour,

(i) on a highway not within a city, town, village, police village, built-up area or urban area, or

(ii) on a highway designated by the Lieutenant Governor in Council as a controlled-access highway under *The Highway Improvement Act*, whether or not such highway is within a city, town, village, police village, built-up area or urban area;

R.S.O. 1960,
c. 171

(b) subject to clause a, 30 miles per hour on a highway within a city, town, village, police village or built-up area;

(c) subject to clause a, 40 miles per hour on a highway within an urban area;

(d) 20 miles per hour over a level railway crossing;

(e) 15 miles per hour if equipped wholly or in part with solid tires;

(f) the speed limit prescribed upon a highway in accordance with the provisions of subsections 2, 3, 4, 5, 6, 9 and 10; or

(g) the speed limit prescribed upon a metropolitan road in accordance with section 89 of *The Municipality of Metropolitan Toronto Act*. R.S.O. 1950, c. 167, s. 28 (1); 1954, c. 35, s. 5 (1); 1958, c. 36, s. 9 (1, 2); 1960, c. 45, s. 10 (1).

R.S.O. 1960,
c. 260

(2) The council of a city, town or village and the trustees of a police village may by by-law prescribe a speed limit of 25 miles per hour for motor vehicles driven on any highway or portion of a highway under its jurisdiction, and the council of a township or county may by by-law prescribe a speed limit of 25 miles per hour for motor vehicles driven on highways under its jurisdiction in any built-up area within the municipality. 1954, c. 35, s. 5 (2), *part*; 1957, c. 44, s. 6 (1). ^{decrease by by-law}

(3) The council of a township having a population exceeding 60,000 may pass by-laws designating any part or parts of the township as a suburban district or districts and prescribing a speed limit of 30 miles per hour for motor vehicles driven on the highways under its jurisdiction within such district or districts subject to any by-law decreasing or increasing the speed limit under subsection 2, 4 or 6. 1959, c. 43, s. 3 (1). ^{suburban districts in townships}

(4) The council of a city, town, village or township and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles driven in any public park or exhibition ground than is prescribed in subsection 1, but such lower rate of speed shall not be less than 15 miles per hour. 1954, c. 35, s. 5 (2), *part*; 1955, c. 29, s. 3 (1). ^{in public parks}

(5) The council of a city, town or village and the trustees of a police village may by by-law prescribe a higher rate of speed for motor vehicles driven on any highway or portion of a highway under its jurisdiction than is prescribed in subsection 1, but such increased rate of speed shall not be more than 50 miles per hour. 1954, c. 35, s. 5 (2), *part*; 1956, c. 29, s. 5 (1). ^{increase by by-law}

(6) The council of a township or county may by by-law prescribe a higher rate of speed for motor vehicles driven on a highway or portion of a highway under its jurisdiction within a built-up area or urban area than is prescribed in subsection 1 or within a suburban district than is prescribed in such district for motor vehicles driven on a highway within a built-up area, urban area or suburban district, but such increased rate of speed shall not be more than 50 miles per hour. 1959, c. 43, s. 3 (2). ^{increase in built-up area, etc.}

(7) No by-law passed under subsection 2, 3, 5 or 6 becomes effective until approved by the Department and the highways or portions thereof affected by the by-law shall be marked to comply with the regulations. 1959, c. 43, s. 3 (3). ^{approval of by-laws}

(8) The speed limits prescribed under this Act or the regulations or any by-law passed under this Act do not apply to a motor vehicle of a municipal fire department while proceeding to a fire or answering a fire alarm call. 1959, c. 43, s. 3 (4). ^{fire department vehicles}

in provincial
parks

(9) The Lieutenant Governor in Council may make regulations prescribing a lower rate of speed than 50 miles per hour for motor vehicles driven upon a highway or any part thereof in any provincial park. 1956, c. 29, s. 5 (3), *part*.

on King's
Highway

(10) The Lieutenant Governor in Council may make regulations prescribing a higher or lower rate of speed than the rate of speed prescribed in this Act or any by-law for any class or classes of motor vehicles upon the King's Highway or any part thereof whether or not the King's Highway or the part thereof is within a city, town, village, police village, built-up area or urban area, and such rate of speed may be different for any period or periods of the day or night. 1958, c. 36, s. 9 (4).

application
of sub-
section 1

R.S.O. 1960,
c. 260

(11) Where a by-law is passed under subsection 2, 3, 4 or 5 or a regulation is made under subsection 9 or 10, or a by-law is passed under section 89 of *The Municipality of Metropolitan Toronto Act*, the rates of speed prescribed in subsection 1 do not apply to the highway or portion of the highway affected by the by-law or regulation. 1956, c. 29, s. 5 (3), *part*; 1959, c. 43, s. 3 (5); 1960, c. 45, s. 10 (2).

Penalty

(12) Every person who contravenes any of the provisions of this section or any by-law passed or regulation made under this section is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than three months; and for any subsequent offence to a fine of not less than \$20 and not more than \$200, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 28 (4); 1956, c. 29, s. 5 (4).

Careless
driving

60. Every person is guilty of the offence of driving carelessly who drives a vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway and is liable to a fine of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than three months, and in addition his licence or permit may be suspended for a period of not more than two years. 1955, c. 29, s. 4, *part*; 1958, c. 36, s. 10.

Regulations
limiting
speed on
bridges

61.—(1) The municipal corporation or other authority having jurisdiction over the highway and, in the case of a provincial highway or a highway in territory without municipal organization, the Lieutenant Governor in Council may make regulations limiting any vehicle passing over a bridge to a speed of not less than 5 miles per hour, and notice of the

limit of speed fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

(2) Every person who injures or interferes with such notice ^{Penalty for defacing} is liable to a fine of not less than \$1 and not more than \$10. R.S.O. 1950, c. 167, s. 31.

62.—(1) No motor vehicle shall be driven on a highway at such a slow rate of speed as to impede or block the normal and reasonable movement of traffic thereon except when such slow rate of speed is necessary for safe operation having regard to all the circumstances. ^{Unnecessary slow driving prohibited}

(2) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$50; and for any subsequent offence to a fine of not less than \$10 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days. ^{Penalty} R.S.O. 1950, c. 167, s. 32.

PART VIII

RULES OF THE ROAD

63. Subject to sections 64 and 66, a driver or operator of a vehicle approaching an intersection shall yield the right of way ^{Right of way} to a vehicle that has entered the intersection from a different highway and, when two vehicles enter an intersection from different highways at approximately the same time, the driver or operator on the left shall yield the right of way to the vehicle on the right. 1958, c. 36, s. 12.

64. The driver or operator of a vehicle or car of an electric railway, ^{Stop through highway}

- (a) upon approaching a stop sign at an intersection, shall bring the vehicle or car to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and
- (b) upon entering the intersection, shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that it constitutes an immediate hazard and having so yielded the right of way may proceed with caution and the traffic approaching the intersection on another highway shall yield the right of way to the vehicle so proceeding in the intersection. 1958, c. 36, s. 12 (5); 1960, c. 45, s. 15 (7, 8).

Stop signs,
erection
at inter-
sections

65. In addition to stop signs required at intersections on through highways,

- (a) the council of a municipality and the trustees of a police village may by by-law approved by the Department provide for the erection of stop signs at intersections on highways under its jurisdiction; and
- (b) the Lieutenant Governor in Council may by regulation designate intersections on the King's Highway at which stop signs shall be erected,

and every sign so erected shall comply with the regulations of the Department. 1960, c. 45, s. 18.

Yield
right-of-
way signs

66.—(1) The driver or operator of a vehicle or car of an electric railway approaching a yield right-of-way sign shall slow down to a speed reasonable for the existing conditions or shall stop if necessary as provided in clause *a* of section 64 and shall yield the right of way to traffic in the intersection or approaching on the intersecting highway so closely that it constitutes an immediate hazard and having so yielded may proceed with caution. 1958, c. 36, s. 12 (6), *part*.

Approval
of signs

(2) No yield right-of-way sign shall be erected without the approval of the Department and every sign so erected shall comply with the regulations of the Department. 1958, c. 36, s. 12 (6), *part*.

Right of
way on
entering
highway
from private
road

67. The driver or operator of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on the highway. 1955, c. 29, s. 6 (3), *part*.

Turns,
right at
intersections

68.—(1) The driver or operator of a vehicle intending to turn to the right into an intersecting highway shall approach such intersection and turn as closely as practicable to the right curb or edge of the roadway. R.S.O. 1950, c. 167, s. 41 (1), cl. (b).

left at
intersection

(2) The driver or operator of a vehicle within an intersection intending to turn to the left across the path of any vehicle approaching from the opposite direction shall not make such left turn until he has afforded a reasonable opportunity to the driver or operator of such other vehicle to avoid a collision. 1960, c. 45, s. 15 (1).

intersection
of two-way
highways

(3) The driver or operator of a vehicle intending to turn to the left into an intersecting highway at an intersection where traffic is permitted to move in both directions on each highway entering the intersection shall approach such intersection as closely as practicable to the centre line of the highway and the

left turn shall be made by passing to the right of such centre line where it enters the intersection, and upon leaving the intersection by passing to the right of the centre line of the highway then entered.

(4) The driver or operator of a vehicle intending to turn ^{from} to the left from a highway designated for use of one-way ^{one-way} traffic into an intersecting highway on which traffic is permitted to move in both directions shall approach the intersection as closely as practicable to the left curb or edge of the roadway and on entering the intersection shall pass as closely as practicable to the centre line of the highway being entered where it enters the intersection.

(5) The driver or operator of a vehicle intending to turn ^{into} to the left from a highway on which traffic is permitted to ^{one-way} move in both directions into an intersecting highway designated for the use of one-way traffic shall approach the intersection as closely as practicable to the centre line of the highway and on entering the intersection the left turn shall be made by passing as closely as practicable to the left hand curb or edge of the roadway designated for the use of one-way traffic. 1953, c. 46, s. 10.

(6) The driver or operator of a vehicle intending to turn ^{from} to the left from a highway designated for use of one-way traffic ^{one-way} into an intersecting highway designated for use of one-way ^{highway to} traffic shall approach the intersection as closely as practicable to the left-hand curb or edge of the roadway and on entering the intersection the left turn shall be made by passing as closely as practicable to the left-hand curb or edge of the roadway being entered. 1960, c. 45, s. 15 (2).

69.—(1) The driver or operator of a vehicle upon a highway before turning to the left or right from a direct line shall ^{Signal for} first see that such movement can be made in safety, and if the ^{left or right} operation of any other vehicle may be affected by such movement shall give a signal plainly visible to the driver or operator of such other vehicle of the intention to make such movement. R.S.O. 1950, c. 167, s. 41 (1), cl. (d); 1954, c. 35, s. 6 (2).

(2) The signal required in subsection 1 shall be given either ^{Mode of} by means of the hand and arm in the manner herein specified ^{signalling} or by a mechanical or electrical signal device as described in ^{turn} subsection 4. R.S.O. 1950, c. 167, s. 41 (1), cl. (e); 1951, c. 34, s. 7 (1).

(3) When the signal is given by means of the hand and arm, the driver or operator shall indicate his intention to turn, ^{How to} ^{signal} ^{manually}

(a) to the left, by extending the hand and arm horizontally and beyond the left side of the vehicle; or

- (b) to the right, by extending the hand and arm upward and beyond the left side of the vehicle. 1954, c. 35, s. 6 (3).

Require-
ments for
signalling
device

(4) A mechanical or electrical signal device shall clearly indicate the intention to turn, shall be visible and understandable during day-time and night-time from the front and from the rear of the vehicle for a distance of 100 feet, and shall be self-illuminated when used at any time from one-half hour after sunset to one-half hour before sunrise. 1951, c. 34, s. 7 (2), *amended*.

Signal for
stop,

(5) The driver or operator of a vehicle upon a highway before stopping or suddenly decreasing the speed of the vehicle, if the operation of any other vehicle may be affected by such stopping or decreasing of speed, shall give a signal plainly visible to the driver or operator of such other vehicle of the intention to stop or decrease speed,

manually

- (a) by means of the hand and arm extended downward beyond the left side of the vehicle; or

signalling
device

- (b) by means of a stop lamp or lamps on the rear of the vehicle which shall emit a red or yellow light and which shall be actuated upon application of the service or foot brake and which may or may not be incorporated with one or more rear lamps. 1954, c. 35, s. 6 (4).

Signal-
light traffic
control
systems,
interpreta-
tion

70.—(1) In this section, “intersection” includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway. R.S.O. 1950, c. 167, s. 41 (4); 1956, c. 29, s. 8 (2).

Arrange-
ment of
lights

(2) Green arrow, green, amber and red lights may be used for signal-light traffic control systems and such lights shall be arranged vertically in the following order commencing at the bottom, green arrow, green, amber and red. 1960, c. 45, s. 15 (3).

Driver rules,
on green

(3) When a green signal-light is shown at an intersection, the driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light may proceed across the intersection or turn left or right. R.S.O. 1950, c. 167, s. 41 (2), cl. (b).

red

(4) When a red signal-light is shown at an intersection, every driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such light shall bring his vehicle or car to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection, and shall not proceed until a green light is shown,

provided that the driver or operator may turn to the right after bringing the vehicle or car to a full stop. R.S.O. 1950, c. 167, s. 41 (2), cl. (c); 1958 c. 36, s. 12 (2).

(5) When green and amber signal-lights are shown simultaneously at an intersection, the driver or operator of a vehicle or car of an electric railway that is approaching the intersection and facing such lights shall bring his vehicle or car to a full stop immediately before entering the nearest crosswalk at the intersection, provided that, where any such vehicle or car cannot be brought to a stop in safety before entering the intersection, it may be driven cautiously across the intersection. R.S.O. 1950, c. 167, s. 41 (2), cl. (d). ^{green and amber}

(6) When a red signal-light illuminated by rapid intermittent flashes is shown at an intersection, the driver or operator of a vehicle, or a car of an electric railway, which is approaching the intersection and facing such light, shall bring his vehicle or car to a full stop before entering such intersection and the right to proceed is subject to the rules applicable after making a full stop at a through highway. ^{flashing red}

(7) When an amber light illuminated by rapid intermittent flashes is shown at the intersection, the driver or operator of a vehicle, or a car of an electric railway, which is approaching the intersection and facing such light, may proceed through the intersection only with caution. ^{flashing amber}

(8) When a red signal-light with a green arrow is shown at an intersection, the driver or operator of a vehicle, or a car of an electric railway, which is approaching the intersection and facing such light, may proceed with caution into the intersection only to make the movement indicated by such arrow, but shall yield the right of way to pedestrians and other traffic lawfully using the intersection. R.S.O. 1950, c. 167, s. 41 (2), cl. (g); 1960, c. 45, s. 15 (5). ^{green arrow}

(9) When under this section the driver or operator of a vehicle or car of an electric railway is permitted to turn left or right, such driver or operator shall yield the right of way to pedestrians and other traffic lawfully within the intersection. 1960, c. 45, s. 15 (4). ^{Turns subject to pedestrian right of way}

(10) The provisions of this section are subject to any sign or notice forbidding a left or right turn or both that may be conspicuously posted at any intersection and to any direction of a constable or other person who is authorized to direct traffic. R.S.O. 1950, c. 167, s. 41 (2), cl. (h). ^{Rules subject to signs at intersection}

(11) When a green signal-light is shown at an intersection, a pedestrian approaching the intersection and facing such light may proceed across the roadway, provided that, where mark- ^{Pedestrian rules, re green signal}

ings upon the roadway indicate the portion of the roadway to be used by pedestrian traffic, the pedestrian shall proceed within the marked portion.

red or
green and
amber

(12) When a red signal-light is shown, and where green and amber signal-lights are shown simultaneously, at an intersection a pedestrian approaching such intersection and facing such light or lights shall not enter the roadway until a green light only is shown. R.S.O. 1950, c. 167, s. 41 (2), cl. (f); 1958, c. 36, s. 12 (3).

Pedestrian
control
signals

(13) Notwithstanding subsections 11 and 12,

- (a) when a "walk" pedestrian control signal is shown, a pedestrian facing the signal may proceed across the roadway in the direction of the signal and while so proceeding across the roadway has the right of way over all vehicles;
- (b) when a "wait" or "don't walk" pedestrian control signal is shown,
 - (i) a pedestrian facing the signal shall not commence to cross the roadway until a "walk" pedestrian control signal is shown,
 - (ii) a pedestrian proceeding across the roadway when a "wait" or "don't walk" signal is shown after he entered the roadway shall quickly proceed across the roadway and has a right of way for that purpose over all vehicles. 1958, c. 36, s. 12 (4).

Erection of
signal lights

(14) Every signal-light traffic control system installed after the 9th day of April, 1936, shall consist of sets of green, amber and red or green arrow, green, amber and red signal-lights, each of which sets shall be mounted on or suspended from or by means of a bracket or extended arm attached to a post or other standard located to the right side of the roadway used by the traffic controlled by it and to the side of the intersecting roadway that is remote from such traffic as it approaches, and the lower portion of each of such sets shall be not less than nine feet from the level of the roadway, provided that, where any such system is installed at an intersection other than an intersection where two highways cross, the arrangement of the lights shall comply as nearly as possible with the provisions of this subsection. R.S.O. 1950, c. 167, s. 41 (2), cl. (i), subcl. (i); 1951, c. 34, s. 7 (3); 1960, c. 45, s. 15 (6).

Idem

(15) A signal-light traffic control system may be erected and maintained at a place other than an intersection, in which event the provisions of this section, except those that by their

nature can have no application, are applicable, and any stop required shall be made at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the signal.

(16) No signal-light traffic control system shall be erected unless the approval of the Department has been obtained. R.S.O. 1950, c. 167, s. 41 (2), cl. (i), subcls. (ii, iii). ^{Idem}

(17) Additional signal-lights may be installed with the approval of the Department for use in conjunction with any signal-light traffic control system. 1957, c. 44, s. 9 (2). ^{Idem}

71.—(1) Where a person in charge of a vehicle on a highway meets another vehicle, he shall turn out to the right from the centre of the roadway, allowing to the vehicle so met one-half of the roadway free, but this does not apply to a vehicle, road-building machine or apparatus while engaged in the construction, maintenance or marking of a highway. R.S.O. 1950, c. 167, s. 41 (8); 1956, c. 29, s. 8 (3). ^{Passing, vehicles meeting others}

(2) Where a person in charge of a vehicle on a highway meets a person travelling upon a bicycle or tricycle, the person in charge of the vehicle shall allow the person travelling on the bicycle or tricycle sufficient room on the roadway to pass. ^{Vehicles meeting bicycles, etc.}

(3) Where a person in charge of a vehicle or on horseback on a highway is overtaken by a vehicle or horseman travelling at a greater speed, the person so overtaken shall turn out to the right and allow such vehicle or horseman to pass. R.S.O. 1950, c. 167, s. 41 (9, 10). ^{Vehicles or horsemen overtaken by others}

(4) Any person so overtaking another vehicle or horseman shall turn out to the left so far as may be necessary to avoid a collision with the vehicle or horseman overtaken, and the person overtaken is not required to leave more than one-half of the roadway free. R.S.O. 1950, c. 167, s. 41 (11); 1958, c. 36, s. 12 (8), *amended*. ^{Vehicles or horsemen overtaking others}

(5) Where a person on a bicycle or a tricycle on a highway is overtaken by a vehicle or horseman travelling at a greater speed, the person so overtaken shall turn out to the right and allow such vehicle or horseman to pass and the person so overtaking a bicycle or tricycle shall turn out to the left so far as may be necessary to avoid a collision. R.S.O. 1950, c. 167, s. 41 (12). ^{Bicycles or tricycles overtaken by vehicles or horsemen}

(6) Where one vehicle is met or overtaken by another, if by reason of the weight of the load on either of the vehicles so meeting or on the vehicle so overtaken the driver finds it impracticable to turn out, he shall immediately stop, and, if necessary for the safety of the other vehicle and if required ^{Driver unable to turn out is to stop}

so to do, he shall assist the person in charge thereof to pass without damage. R.S.O. 1950, c. 167, s. 41 (15).

Passing
vehicle
going in
same
direction

(7) No person in charge of a vehicle shall pass or attempt to pass another vehicle going in the same direction on a highway unless the roadway,

(a) in front of and to the left of the vehicle to be passed is safely free from approaching traffic; and

(b) to the left of the vehicle passing or attempting to pass is safely free from overtaking traffic. 1955, c. 29, s. 6 (4).

Driving to
left of
centre of
roadway
under
certain
conditions
prohibited

72. No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lines of traffic in each direction,

(a) when approaching the crest of a grade or upon a curve in the roadway or within 100 feet of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; or

(b) when approaching within 100 feet of or traversing any intersection or level railway crossing, except where a left turn is to be made at an intersection, but this section does not apply to a highway designated for the use of one-way traffic or to a highway divided into clearly marked lanes as provided in section 76. 1955, c. 29, s. 6 (3), *part*.

Passing to
right of
vehicle

73.—(1) Notwithstanding section 71 and subject to subsection 2, the driver of a motor vehicle may overtake and pass to the right of another vehicle within a city, town or village only under the following conditions:

(a) when the vehicle overtaken is making or about to make a left turn or its driver has signalled his intention to make a left turn; or

(b) upon a highway with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction; or

(c) upon a highway designated for the use of one-way traffic only.

May pass
to right
only under
safe
conditions

(2) The driver of a motor vehicle shall not overtake and pass to the right of another vehicle where such movement cannot be made in safety and in no event shall a driver make such movement by driving off the roadway. 1958, c. 36, s. 12 (7).

(3) The Lieutenant Governor in Council may make regulations designating a highway or part thereof outside a city, town or village to which the provisions of subsections 1 and 2 shall apply. 1959, c. 43, s. 5.

74. For the purposes of sections 75 and 76, "designated" means designated by the Minister or by any person authorized by him to make such designation or designated by by-law of a municipality, approved by the Department. R.S.O. 1950, c. 167, s. 41 (7).

75. Where a highway has been designated for the use of one-way traffic only and official signs have been erected accordingly, vehicles shall be driven only in the direction so designated. R.S.O. 1950, c. 167, s. 41 (6).

76. Where a highway has been divided into clearly marked lanes for traffic,

(a) a vehicle shall be driven as nearly as may be practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(b) in the case of a highway that is divided into three lanes, a vehicle shall not be driven in the centre lane except when overtaking and passing another vehicle where the roadway is clearly visible and the centre lane is clear of traffic within a reasonably safe distance, or in preparation for a left turn, or where such centre lane is at the time designated for the use of traffic moving in the direction in which the vehicle is proceeding and official signs are erected to indicate such designation;

(c) any lane may be designated for slowly moving traffic or traffic moving in a particular direction provided that official signs are erected to indicate such designation, and where a highway is so designated the driver of every vehicle shall obey the direction on the official signs. R.S.O. 1950, c. 167, s. 41 (5).

77.—(1) When a highway has been divided into traffic lanes by an unpaved portion lying between two parallel paved roadways, no person shall operate or drive a vehicle or lead, ride or drive an animal,

(a) along or on such highway except on the roadway on the right-hand side, having regard to the direction

in which the vehicle is being operated or drawn or the animal is being led, ridden or driven; or

- (b) on, over or across the unpaved portion of the highway except at those points where crossings are marked or provided.

Penalty

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$10; for the second offence to a fine of not more than \$20; for the third offence to a fine of not more than \$30; and for any subsequent offence to a fine of not more than \$50. R.S.O. 1950, c. 167, s. 42.

Headway of motor vehicles

78.—(1) The driver or operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicle and the traffic on and the conditions of the highway. 1953, c. 46, s. 11 (1).

Headway for commercial vehicles

(2) The driver or operator of a commercial motor vehicle when driving on a highway outside of a city, town or village shall not follow within 200 feet of another commercial motor vehicle; but this shall not be construed to prevent one commercial motor vehicle overtaking and passing another such vehicle. R.S.O. 1950, c. 167, s. 41 (17); 1953, c. 46, s. 11 (2).

Fire department vehicle, etc., approaching

79.—(1) The driver of a vehicle, upon the approach of an ambulance, fire or police department vehicle or public utility emergency vehicle, upon which a bell or siren is sounding, shall immediately bring such vehicle to a standstill as near as is practicable to the right-hand curb or edge of the roadway and parallel therewith and clear of any intersection. 1957, c. 44, s. 9 (5).

Following fire department vehicle

(2) No driver of a vehicle shall follow a fire department vehicle when responding to an alarm at a distance of less than 500 feet. R.S.O. 1950, c. 167, s. 41 (19).

Towing of persons on bicycles, toboggans, etc., prohibited

80. No driver of a vehicle or street car shall permit any person riding upon a bicycle, coaster, roller skates, skis, toboggan, sled or toy vehicle to attach the same or himself to the vehicle or street car. 1960, c. 45, s. 15 (9).

Crowding driver's seat

81. No person shall operate a motor vehicle with persons or property in the front or driver's seat so placed as to interfere with the proper management or control of the motor vehicle. 1960, c. 45, s. 15 (10), *part*.

Vehicles required to stop at railway crossing signal

82. When the driver of a vehicle is approaching a railway crossing at a time when a clearly visible electrical or mechanical signal device or a flagman is giving warning of the approach of a railway train, he shall stop the vehicle not less

than 15 feet from the nearest rail of the railway and shall not proceed until he can do so safely. 1960, c. 45, s. 15 (10), *part*.

83. No person shall drive a vehicle through, around or under a crossing gate or barrier at a railway crossing while the gate or barrier is closed or is being opened or closed. 1960, c. 45, s. 15 (10), *part*. Driving of vehicles under crossing gates prohibited

84. No person shall,

- (a) open the door of a motor vehicle on a highway without first taking due precautions to ensure that his act will not interfere with the movement of or endanger any other person or vehicle; or
- (b) leave a door of a motor vehicle on a highway open on the side of the vehicle available to moving traffic for a period of time longer than is necessary to load or unload passengers. 1958, c. 36, s. 12 (10).

Opening of doors of motor vehicles

85. Every person who contravenes any of the provisions of sections 63 to 76 and 78 to 84 is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than three months; and for any subsequent offence to a fine of not less than \$20 and not more than \$200, and in addition his licence or permit may be suspended for a period of not more than six months. 1957, c. 44, s. 9 (6). Penalty

86.—(1) Where a person in charge of a vehicle or on a bicycle or tricycle or on horseback or leading a horse on a highway overtakes a street car or a car of an electric railway, operated in or near the centre of the roadway, which is stationary for the purpose of taking on or discharging passengers, he shall not pass the car or approach nearer than six feet measured back from the rear or front entrance or exit, as the case may be, of the car on the side on which passengers are getting on or off until such passengers have got on or got safely to the side of the street, as the case may be; but this sub-section does not apply where a safety zone has been set aside and designated by a by-law passed under paragraph 107 of subsection 1 of section 379 of *The Municipal Act*. R.S.O. 1950, c. 167, s. 45 (1). Requirement when approaching standing street car
R.S.O. 1960, c. 249

(2) No person in charge of a vehicle, or on a bicycle or tricycle, or on horseback or leading a horse, overtaking a street car or the car of an electric railway, operated in or near the centre of the roadway, which is stationary or in motion, shall pass on the left side of such car, having reference to the Prohibition as to passing street cars on left-hand side

direction in which such car is travelling; but this subsection does not apply to a vehicle belonging to a municipal fire department while proceeding to a fire or answering a fire alarm call or where the street car or car of an electric railway is being operated on a highway designated for the use of one-way traffic. R.S.O. 1950, c. 167, s. 45 (2); 1956, c. 29, s. 9.

Penalty

(3) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 45 (3).

Approaching
ridden or
driven
horses, etc.

87.—(1) Every person having the control or charge of a motor vehicle on a highway, when approaching a horse or other animal that is drawing a vehicle or being driven, led or ridden, shall operate, manage and control the motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of the horse or other animal and to ensure the safety and protection of any person driving, leading or riding upon the horse or other animal or being in any vehicle drawn by the horse or other animal.

Penalty

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than six months. R.S.O. 1950, c. 167, s. 46.

Use of
passing
beam

88. When on a highway at any time from one-half hour after sunset to one-half hour before sunrise, the driver of a motor vehicle equipped with multiple beam headlamps shall use the lower or passing beam when,

- (a) approaching an oncoming vehicle within 500 feet; or
- (b) following another vehicle within 200 feet, except when in the act of overtaking and passing. 1959, c. 43, s. 6, *amended*.

89.—(1) No person shall park or leave standing any ^{Parking} vehicle, whether attended or unattended, on the roadway when it is practicable to park or leave such vehicle off the roadway, and, in any event, no person shall park or leave standing any vehicle, whether attended or unattended, on such a highway unless a clear view of such vehicle and of the highway for at least 400 feet beyond the vehicle may be obtained from a distance of at least 400 feet from the vehicle in each direction upon such highway. R.S.O. 1950, c. 167, s. 43 (1); 1953, c. 46, s. 12 (1).

(2) Subsection 1 does not apply to a portion of a roadway ^{Where subs. 1 not to apply} within a city, town or village or in respect of which a by-law regulating or prohibiting parking has been passed by the council of a township or county or by trustees of a police village. 1953, c. 46, s. 12 (2).

(3) The Lieutenant Governor in Council may make regulations prohibiting or regulating the parking of vehicles upon ^{Parking on provincial highway} the King's Highway, and on any other highway within a distance of 300 feet from the intersection of such highway with the King's Highway.

(4) Whenever a constable or an officer appointed for carrying out the provisions of this Act finds a vehicle on a highway in contravention of the provisions of this section or the regulations, he may move the vehicle or require the driver or operator or other person in charge of the vehicle to move it. ^{Removal of car parked at prohibited place}

(5) The provisions of this section do not apply to the driver or operator of a vehicle that is so disabled while on a highway that it is impossible to avoid temporarily a contravention of such provisions. ^{Disabled cars}

(6) No person shall park or leave a vehicle on a highway unless he has taken such action as may be reasonably necessary in the circumstances to prevent the vehicle from moving or being set in motion. R.S.O. 1950, c. 167, s. 43 (2-5). ^{Precaution against vehicle being set in motion}

(7) Every commercial motor vehicle, when on a highway outside a city, town or village at any time from one-half hour after sunset to one-half hour before sunrise, shall be equipped with a sufficient number of, ^{Warning lights on commercial motor vehicles}

(a) flares, lamps or lanterns that have been approved by the Department, capable of continuously producing two warning lights, each visible from a distance of at least 500 feet for a period of at least eight hours; or

(b) portable reflectors that have been approved by the Department. 1953, c. 46, s. 12 (3), *amended*.

Flares on disabled commercial motor vehicle or trailer

(8) When any commercial motor vehicle or trailer is disabled during the period when lighted lamps are required to be displayed on vehicles and the vehicle cannot immediately be removed from the roadway outside a city, town or village, the driver or other person in charge of the vehicle shall cause such flares, lamps or lanterns to be lighted, and shall cause them or portable reflectors approved by the Department to be placed and maintained on the highway until one-half hour before sunrise or the removal of the vehicle, one at a distance of approximately 100 feet in advance of the vehicle and one at a distance of approximately 100 feet to the rear of the vehicle. R.S.O. 1950, c. 167, s. 43 (7); 1953, c. 46, s. 12 (4), *amended*.

Vehicles interfering with traffic

(9) Notwithstanding the other provisions of this section, no person shall park or leave standing any vehicle whether attended or unattended on a highway in such a manner as to interfere with the movement of other traffic or the clearing of snow from the highway.

Penalty

(10) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$50; and for any subsequent offence to a fine of not less than \$10 and not more than \$100, and in addition his licence or permit may be suspended for a period of not more than thirty days.

Powers of constable to remove vehicle

(11) A constable or an officer appointed for the carrying out of the provisions of this Act, upon discovery of any vehicle parked or left in contravention of subsection 9 or of a municipal by-law, may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, are a lien upon the vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*. R.S.O. 1950, c. 167, s. 43 (8-10).

R.S.O. 1960, c. 233

Drunkenness of driver or rider

90. Where a person in charge of a vehicle, other than a motor vehicle, or of a horse or other animal used as a means of conveyance, travelling or being on a highway, is through drunkenness unable to drive or ride the same with safety to other persons travelling or being on the highway, he is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 167, s. 55.

Racing on highway

91.—(1) No person shall drive a motor vehicle on a highway in a race or on a bet or wager.

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not less than \$25 and not more than \$100 and is also liable to imprisonment for a term of not more than thirty days, and in addition his licence or permit may be suspended for a period of not more than sixty days; and for any subsequent offence to a fine of not less than \$100 and not more than \$500 and is also liable to imprisonment for a term of not more than six months, and in addition his licence or permit may be suspended for a period of not more than one year. R.S.O. 1950, c. 167, s. 30. Penalty

92.—(1) No person shall race or drive furiously any horse or other animal on a highway. Horse racing on highway

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not less than \$10 and not more than \$50; for the second offence to a fine of not less than \$20 and not more than \$100; and for any subsequent offence to a fine of not less than \$50 and not more than \$200 and is also liable to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 167, s. 56, *amended*. Penalty

93.—(1) The driver of,

(a) a motor vehicle having a seating capacity for ten or more persons, when transporting children to and from school; or

(b) a public vehicle,

Vehicles
required
to stop at
railway
crossings

upon approaching on a highway a railway crossing that is not protected by gates or unless otherwise directed by a flag-man, shall stop such vehicle not less than 15 feet from the nearest rail of the railway and, having stopped, shall look in both directions along the track and open a door of the vehicle and listen for any approaching train and, when it is safe to do so, shall cross the railway track in a gear that he will not need to change while crossing the track and he shall not change gears while crossing.

(2) Every person who contravenes subsection 1 is liable to a fine of not less than \$10 and not more than \$50, and in addition his licence may be suspended for a period of not more than six months. Penalty

(3) Every vehicle to which subsection 1 applies shall bear a sign on the rear thereof clearly legible to a driver approaching from the rear in the following words: Sign required on such vehicles

“THIS VEHICLE STOPS AT ALL RAILWAY CROSSINGS”.

1960, c. 45, s. 17.

School bus,
interpretation

94.—(1) In this section, "school bus" means a motor vehicle used exclusively for the transportation of children to and from school and of such a type and design and colour and displaying such markings and having such equipment, lights and signalling devices as may be prescribed by the regulations made by the Lieutenant Governor in Council.

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing the type, design and colour of the markings to be displayed on and the equipment, lights and signalling devices to be attached to or carried by a school bus. 1955, c. 27, s. 7 (1, 2).

Visual
signals on
school bus

(3) The driver of a school bus upon a highway outside a city, town, village, police village or built-up area, when he is about to stop the bus for the purpose of receiving or discharging school children shall actuate the signalling device on the bus and shall continue it in operation while stopped for such purpose and shall not otherwise actuate the signalling device while on a highway.

Duty of
driver when
school bus
stopped on
highway

(4) Where a school bus is stopped on a highway outside a city, town, village, police village or built-up area for the purpose of receiving or discharging school children and the signalling device on the bus required by the regulations is operating, the driver of a vehicle,

- (a) on overtaking such school bus, shall stop the vehicle before reaching the bus and shall not proceed until the bus resumes motion or the signalling device is no longer operating;
- (b) on meeting such school bus on such a highway, other than a highway with separate roadways, shall, at a distance of not less than 100 feet from the school bus, reduce the speed of the vehicle and proceed past the school bus at a speed not greater than is reasonable or proper, and with due caution for the safety of pedestrians, and shall not increase the speed of the vehicle until he has reached a distance of at least 100 feet from the school bus.

Markings to
be covered
when
children
not being
transported

(5) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating "school bus" shall be covered or concealed.

Regulations
re vehicles
used for
conveyance
of school
children

(6) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles or any class or type thereof used for transporting children to and

from school and operated by or under contract with a school board or other authority in charge of a school;

- (b) requiring the use of any equipment on or in such vehicles or any class or type thereof and prescribing the standards and specifications of such equipment;
- (c) prescribing the qualifications of drivers of such vehicles or any class or type thereof and prohibiting the operation thereof by unqualified persons;
- (d) requiring the inspection of such vehicles or any class or type thereof. 1960, c. 45, s. 16.

95.—(1) No person, while on the roadway, shall,

Soliciting
rides, etc.,
prohibited

- (a) solicit a ride from the driver of a motor vehicle other than a public passenger conveyance; or
- (b) stop or attempt to stop a motor vehicle for the purpose of selling or offering to sell any commodity or service to the driver or any other person in the motor vehicle.

(2) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50, and in addition his licence or permit may be suspended for a period of not more than sixty days. 1956, c. 29, s. 10, *part*.

Penalty

96.—(1) A person riding upon a bicycle, a coaster, roller skates, skis, a toboggan, a sled or a toy vehicle shall not attach it or them or himself to a vehicle or street car on a roadway. 1958, c. 36, s. 12 (9).

Bicycle
riders, etc.,
clinging to
vehicles

(2) No person riding on a bicycle designed for carrying one person only shall carry any other person thereon. R.S.O. 1950, c. 167, s. 41 (14).

Person on
bicycle

97. Where sidewalks are not provided on a highway, a pedestrian walking along or on the highway, when practicable, shall walk on the left side of the highway facing traffic that may approach from the opposite direction. 1955, c. 29, s. 6 (5).

Pedestrians
to walk on
left side of
highway

98. Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is

Littering
highway
prohibited

guilty of the offence of littering the highway and is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100; and for any subsequent offence to a fine of not less than \$20 and not more than \$200, and in addition his licence or permit may be suspended for a period of not more than sixty days. 1958, c. 36, s. 13.

Signs

99.—(1) The Lieutenant Governor in Council may make regulations providing for the erection of signs on any highways and prescribing the types of signs to be erected and the location of each type of sign.

Signs to be obeyed

(2) Every driver or operator of a vehicle shall obey the instructions or directions indicated on any sign so erected. 1954, c. 35, s. 7.

Defacing notice or removing obstruction

100. Every person who removes, defaces or in any manner interferes with any notice or obstruction lawfully placed on a highway is liable, for the first offence to a fine of not less than \$25 and not more than \$100 and is also liable to imprisonment for a term of not more than thirty days; and for any subsequent offence to a fine of not less than \$100 and not more than \$500 and is also liable to imprisonment for a term of not more than six months. R.S.O. 1950, c. 167, s. 33.

PART IX

TRACTION ENGINES ON HIGHWAYS

Limit of weight

101.—(1) Traction engines, not exceeding fifteen tons in weight, may be used on a highway, subject to the provisions of this Part.

Speed

(2) The speed of a traction engine in cities, towns and villages shall not exceed the rate of 3 miles per hour, or elsewhere the rate of 6 miles per hour.

Width of wheels

(3) The width of the driving wheels of all such engines shall be at least twelve inches and the wheels of the trucks or wagons drawn thereby shall be at least four inches in width for the first two tons capacity, load and weight of truck included, and at least an additional one-half inch for each additional ton.

Cleats on rear wheels

(4) No traction engine manufactured after the 1st day of January, 1924, and having a weight in excess of three tons shall be operated on a highway unless the cleats, if any, on the rear wheels have a smooth surface and are not less than one and one-half inches in width of face and, if the cleats extend the full width of the rim of the wheel, they shall be placed at

intervals of not more than six inches and, if they do not extend the full width of the rim but are staggered diagonally, they shall be placed at intervals of not more than four and one-half inches, and in no case shall they be placed at an angle of more than thirty degrees with the horizontal axis of the wheel.

(5) No traction engine manufactured after the 1st day of January, 1924, shall be operated on a highway unless the cleats or flanges, if any, on the wheels are such that the weight resting upon the surface of the highway does not exceed 200 pounds upon any square inch of cleat or flange, assuming the entire width of the face of the cleat or flange to bear on the highway. R.S.O. 1950, c. 167, s. 72.

102.—(1) Before it is lawful to run such engine over a highway, the person proposing to run the engine shall, at his own expense, strengthen all bridges and culverts to be crossed by the engine and keep the same in repair so long as the highway is so used.

(2) The cost of such repairs shall be borne by the owners of different engines in proportion to the number of engines run over such bridges or culverts.

(3) Subsections 1 and 2 do not apply to engines of less than ten tons in weight, used for threshing purposes or for machinery for the construction of roadways.

(4) Before crossing any such bridge or culvert, the person proposing to run any traction engine shall lay down on the bridge or culvert planks of sufficient width and thickness to fully protect the flooring or surface of the bridge or culvert from any injury that might otherwise result thereto from the contact of the wheels of the engine, and in default thereof the person in charge and his employer, if any, is liable to the corporation of the municipality for all damage resulting to the flooring or surface of the bridge or culvert. R.S.O. 1950, c. 167, s. 73.

103. Every person who contravenes any of the provisions of section 101 or 102 is liable to a fine of not less than \$5 and not more than \$25. R.S.O. 1950, c. 167, s. 74.

104.—(1) Where a portable or traction engine is met or overtaken on a highway by a vehicle drawn by a horse or other animal, or by a horseman, the driver of the engine shall, if practicable, turn out to the right and give such vehicle or horseman at least one-half of the road, and, if requested by the driver, shall stop and remain stationary until the vehicle or horseman has safely passed, and assist such driver or horseman to pass.

Noises not to be made when passing horses, etc.

(2) It is the duty of the driver or of the person in charge of any such engine to see that it makes no noise by whistling or otherwise when any horse or animal is passing or is near or is about to pass the engine on any highway.

Penalty

(3) Every person who contravenes any of the provisions of this section is liable, for the first offence to a fine of not less than \$5 and not more than \$10; for the second offence to a fine of not less than \$10 and not more than \$25; and for any subsequent offence to a fine of not less than \$25 and not more than \$50. R.S.O. 1950, c. 167, s. 44.

PART X

CIVIL ACTIONS

Liability for loss or damage

105.—(1) The owner of a motor vehicle is liable for loss or damage sustained by any person by reason of negligence in the operation of the motor vehicle on a highway unless the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur, and the driver of a motor vehicle not being the owner is liable to the same extent as the owner.

Liability for injury to passengers

(2) Notwithstanding subsection 1, the owner or driver of a motor vehicle, other than a vehicle operated in the business of carrying passengers for compensation, is not liable for any loss or damage resulting from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting on to, or alighting from the motor vehicle. R.S.O. 1950, c. 167, s. 50.

Onus of disproving negligence

106.—(1) When loss or damage is sustained by any person by reason of a motor vehicle on a highway, the onus of proof that the loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle is upon the owner or driver. R.S.O. 1950, c. 167, s. 51 (1).

Application of section

(2) This section does not apply in case of a collision between motor vehicles or between motor vehicles and cars of electric or steam railways or other motor vehicles running only on stationary rails on the highway nor to an action brought by a passenger in a motor vehicle in respect of any injuries sustained by him while a passenger. R.S.O. 1950, c. 167, s. 51 (2); 1955, c. 29, s. 8.

Service of notice or process on non-residents

107. The use of a highway within Ontario by any person not resident in Ontario operating or responsible for the operation of a motor vehicle within Ontario shall, by virtue of the right of user conferred by this Act, be deemed to constitute the

Registrar an agent of such person for the service of notice or process in an action in Ontario arising out of a motor vehicle accident in Ontario in which such person is involved, subject to the following conditions:

1. Such notice or process may be served by leaving a copy thereof with or at the office of the Registrar, together with a bond in form and by sureties approved by the Registrar in the sum of \$200 conditioned on the failure of the plaintiff to prevail in the action for the purpose of reimbursing the defendant for the expenses necessarily incurred by him in defending the action in Ontario. Service of notice, etc.
2. Such service is sufficient service if notice of such service and a copy of the notice or process are forthwith sent by registered mail to the defendant and the defendant's return receipt is filed with the registrar or clerk of the court in which the action or proceeding is brought. Sufficiency of service R.S.O. 1950, c. 167, s. 57.

PART XI

APPROVAL OF MUNICIPAL BY-LAWS

108.—(1) Every provision of a municipal by-law passed by the council of a municipality, a board of commissioners of police or the trustees of a police village for, Municipal by-laws approved

- (a) regulating traffic on the highways; or
- (b) regulating noise, fumes or smoke created by the operation of motor vehicles on the highways; or
- (c) prohibiting or regulating the operation of motor vehicles or any type or class thereof on the highways,

that is inconsistent with this Act, is deemed to be repealed and hereafter all by-laws passed for any of the purposes mentioned in clauses *a*, *b* and *c* shall not become operative until approved by the Department. 1958, c. 36, s. 17.

(2) Any by-law for regulating traffic on highways that is submitted to the Department for approval may be approved in whole or in part and, where part of a by-law is approved only, that part shall become operative. Approval of traffic by-law in whole or in part R.S.O. 1950, c. 167, s. 60 (2).

(3) The Department may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. Withdrawal of approval by Department 1957, c. 44, s. 12.

PART XII

FINANCIAL RESPONSIBILITY OF OWNERS AND DRIVERS

Interpre-
tation**109.** In this Part,R.S.O. 1960,
c. 190

- (a) "authorized insurer" means an insurer duly licensed under *The Insurance Act* to carry on in Ontario the business of automobile insurance;
- (b) "driver's licence" means an operator's licence or a chauffeur's licence issued pursuant to this Act;
- (c) "motor vehicle", in addition to the meaning given in section 1, includes "trailer", as defined in section 1;
- (d) "proof of financial responsibility" means a certificate of insurance, a bond, or a deposit of money or securities given or made pursuant to section 118;
- (e) "state" means a state of the United States of America or the District of Columbia;
- (f) "Superintendent of Insurance" means the Superintendent of Insurance appointed under *The Insurance Act*;
- (g) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 167, s. 79.

Other
remedies
protected

110. Nothing in this Part prevents the plaintiff in an action from proceeding upon any other remedy or security available at law. R.S.O. 1950, c. 167, s. 80.

Licences
suspended
for
convictions

111.—(1) The driver's licence and owner's permit or permits of every person who has been convicted of, or committed for trial, or has forfeited his bail after having been arrested for any one of the following offences or contraventions of law:

- (a) any offence for which a penalty is provided in this Act, if injury to or the death of any person or damage to property occurs in connection therewith;
- (b) any offence under this Act if the penalty imposed includes suspension or revocation of the driver's licence or owner's permit; or
- (c) any offence under section 192, 193, 207, 221, 222 or 223 of the *Criminal Code* (Canada) as amended or re-enacted from time to time involving the use of a motor vehicle,

1953-54,
c. 51 (Can.)

shall be forthwith suspended by the Registrar, and shall remain so suspended, and shall not at any time thereafter be renewed, nor shall any new driver's licence or owner's permit

be thereafter issued to such person, until he has given to the Registrar proof of his financial responsibility. R.S.O. 1950, c. 167, s. 81 (1); 1957, c. 44, s. 15.

(2) Where a person pleads guilty to any of the offences mentioned in subsection 1, subsection 1 does not apply unless such person has been given notice,

Suspension
of licence
and permit
upon
conviction
of certain
offences

(a) by a printed or written statement upon or accompanying the summons; or

(b) by the magistrate or judge verbally before accepting the plea,

in the following form or to the like effect:

"The Highway Traffic Act provides that upon conviction of the offence with which you are charged, in the circumstances indicated therein, your driver's licence and owner's permit shall be forthwith suspended by the Minister of Transport".

(3) Upon receipt by the Registrar of official notice that the holder of a driver's licence or owner's permit under this Act has been convicted of, or committed for trial, or has forfeited his bail, in any other province or state in respect of an offence, which, if committed in Ontario would have been, in substance and effect, an offence under or a contravention of the provisions of law mentioned in subsection 1, the Registrar shall suspend every driver's licence and owner's permit or permits of such person issued pursuant to this Act, until that person has given proof of financial responsibility in the same manner as if the conviction or committal has been made or the bail forfeited in Ontario.

Conviction
in other
provinces
or states

(4) If any person to whom subsection 1 applies is not a resident of Ontario, the privilege of operating a motor vehicle within Ontario and the privilege of operation within Ontario of a motor vehicle owned by him is suspended and withdrawn forthwith by virtue of such conviction, committal for trial or forfeiture of bail, until he has given proof of financial responsibility; provided that the magistrate or justice of the peace before whom such person was charged may, in his discretion, by a written permit signed by him, authorize the operation of such motor vehicle to the boundaries of the province by such route and by such person as the permit may describe. R.S.O. 1950, c. 167, s. 81 (2-4).

Non-
residents

112. An owner's permit and driver's licence, or, in the case of a person not a resident of Ontario, the privilege of operating a motor vehicle in Ontario and the privilege of operation within Ontario of a motor vehicle owned by such non-resident, shall not be suspended or withdrawn under this

Where
motor
vehicle
liability
policy in
effect at
time of
offence

Part in respect of an offence under clause *a* of subsection 1 of section 111 if such owner, driver or non-resident satisfies the Registrar that at the time of the offence out of which any conviction, committal for trial or forfeiture of bail arose there was in effect,

- (a) for the benefit of such owner or driver, a motor vehicle liability policy in the form required by subsection 1 of section 127; or
- (b) for the benefit of such non-resident, a motor vehicle liability policy sufficient for the requirements of this Part in respect of proof of financial responsibility issued by an insurer authorized to transact insurance in the state or province in which such non-resident resides and which insurer has filed the power of attorney and undertakings referred to in clauses *a*, *b* and *c* of subsection 5 of section 118. 1953, c. 46, s. 16.

Licence
suspended
for failure
to pay
judgments

113.—(1) Subject to section 121, the driver's licence and owner's permit or permits of every person who fails to satisfy a judgment rendered against him by any court in Ontario that has become final by affirmation on appeal or by expiry without appeal of the time allowed for appeal, for damages on account of injury to or death of any person, or on account of damage to property, occasioned by a motor vehicle, within fifteen days from the date upon which such judgment became final shall be forthwith suspended by the Registrar, upon receiving a certificate of such final judgment from the court in which the same is rendered, and shall remain so suspended and shall not at any time thereafter be renewed, nor shall any new driver's licence or owner's permit be thereafter issued to such person, until such judgment is satisfied or discharged, otherwise than by a discharge in bankruptcy, to the extent for which financial responsibility is required to be given under section 117, and until such person gives proof of his financial responsibility. R.S.O. 1950, c. 167, s. 82 (1); 1956, c. 29, s. 16 (1).

Reciprocal
effect of
subs. 1
with states
having
similar
legislation

(2) The Lieutenant Governor in Council, upon the report of the Minister that a state or province has enacted legislation similar in effect to subsection 1 and that such legislation extends and applies to judgments rendered and become final against residents of that state or province by any court of competent jurisdiction in Ontario, may declare that the provisions of subsection 1 shall extend and apply to judgments rendered and become final against residents of Ontario by any court of competent jurisdiction in such state or province. R.S.O. 1950, c. 167, s. 82 (2); 1956, c. 29, s. 16 (2).

NOTE.—By regulations made under this Act, the provisions of subsection 1 of section 118 extend and apply to judgments rendered and become final against residents of Ontario by any court of competent jurisdiction in the province of

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|----------------------|------------------------------|
| 1. Alberta, | 5. Newfoundland, |
| 2. British Columbia, | 6. Nova Scotia, |
| 3. Manitoba, | 7. Prince Edward Island, and |
| 4. New Brunswick, | 8. Saskatchewan, |

and the state of

- | | |
|--------------------|-------------------------------|
| 1. Alabama, | 22. New Jersey, |
| 2. Arizona, | 23. New Mexico, |
| 3. Arkansas, | 24. New York, |
| 4. Colorado, | 25. North Carolina, |
| 5. Connecticut, | 26. North Dakota, |
| 6. Delaware, | 27. Ohio, |
| 7. Idaho, | 28. Oklahoma, |
| 8. Illinois, | 29. Oregon, |
| 9. Indiana, | 30. Pennsylvania, |
| 10. Iowa, | 31. Rhode Island, |
| 11. Kansas, | 32. South Carolina, |
| 12. Kentucky, | 33. Tennessee, |
| 13. Louisiana, | 34. Texas, |
| 14. Maryland, | 35. Utah, |
| 15. Michigan, | 36. Virginia, |
| 16. Minnesota, | 37. Washington, |
| 17. Mississippi, | 38. West Virginia, |
| 18. Missouri, | 39. Wisconsin, |
| 19. Montana, | 40. Wyoming, and |
| 20. Nebraska, | 41. the District of Columbia. |
| 21. New Hampshire, | |

(3) If, after such proof of financial responsibility has been given, any other judgment against such person, for any accident that occurred before such proof was furnished, and after the 1st day of September, 1930, is reported to the Registrar, the driver's licence and owner's permit or permits of such person shall again be, and remain, suspended until such judgment is satisfied and discharged, otherwise than by a discharge in bankruptcy, to the extent set out in subsection 1. Subsequent judgments

(4) If any person to whom subsection 1 applies is not a resident of Ontario, the privilege of operating a motor vehicle in Ontario and the privilege of operation in Ontario of a motor vehicle registered in his name is suspended and withdrawn forthwith by virtue of such judgment until he has complied with the provisions of subsection 1. R.S.O. 1950, c. 167, s. 82 (3, 4). Non-residents

114. The Minister may require proof of financial responsibility before issue of an owner's permit or driver's licence, or the renewal thereof, to any person under the age of twenty-one years or over the age of sixty-five years. R.S.O. 1950, c. 167, s. 83. Persons under and over certain ages

Persons responsible for accidents

115. The Minister may require proof of financial responsibility from any person where,

- (a) in the opinion of the Minister such person is responsible in whole or in part for a motor vehicle accident; or
- (b) having regard to the records of the Department relating to such person, the Minister is of the opinion that such requirement is desirable,

and may suspend all owners' permits and drivers' licences in such cases until proof of financial responsibility has been given. R.S.O. 1950, c. 167, s. 84.

Voluntary filing of financial responsibility

116.—(1) An owner's permit and driver's licence, or, in the case of a person not a resident of Ontario, the privilege of operating a motor vehicle in Ontario and the privilege of operation within Ontario of a motor vehicle owned by such non-resident, shall not be suspended or withdrawn under the provisions of this Part if such owner, driver or non-resident has voluntarily filed or deposited with the Registrar, prior to the offence out of which any conviction, committal for trial or forfeiture of bail arose, proof of financial responsibility which, at the date of such conviction, is valid and sufficient for the requirements of this Part. R.S.O. 1950, c. 167, s. 85 (1); 1953, c. 46, s. 17.

Registrar may receive proof

(2) The Registrar shall receive and record proof of financial responsibility voluntarily offered and, if any conviction or judgment against such person is thereafter notified to the Registrar which in the absence of such proof of financial responsibility would have caused the suspension of the driver's licence or owner's permit under this Part, the Registrar shall forthwith notify the insurer or surety of such person of the conviction or judgment so reported. R.S.O. 1950, c. 167, s. 85 (2).

Amounts and limits of financial responsibility

117. Subject to subsection 3 of section 118, proof of financial responsibility shall be given in the following amounts by every driver, and, in the case of an owner, in the said amounts for each motor vehicle registered in his name, by every owner, to whom this Part applies,

- (a) at least \$10,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or the death of any one person and, subject to such limit for any one person so injured or killed, at least \$20,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or the death of two or more persons in any one accident; and

- (b) at least \$5,000 (exclusive of interest and costs) for damage to property, except property carried in or upon the motor vehicle, resulting from any one accident. R.S.O. 1950, c. 167, s. 86; 1957, c. 44, s. 16.

118.—(1) Subject to subsection 3, proof of financial responsibility may be given in any one of the following forms:

Proof of financial responsibility:

- (a) the written certificate or certificates, filed with the Registrar, of any authorized insurer that it has issued, to or for the benefit of the person named therein, a motor vehicle liability policy or policies in form hereinafter prescribed, which at the date of the certificate or certificates is in full force and effect, and which designates therein, by explicit description or by other adequate reference, all motor vehicles to which the policy applies, and any such certificate or certificates shall be in the form approved by the Registrar and shall cover all motor vehicles registered in the name of the person furnishing the proof, and the certificate or certificates shall certify that the motor vehicle liability policy or policies therein mentioned shall not be cancelled or expire except upon ten days prior written notice thereof to the Registrar, and until such notice is duly given the certificate or certificates are valid, and sufficient to cover the term of any renewal of such motor vehicle liability policy by the insurer, or any renewal or extension of the term of such driver's licence or owner's permit by the Minister; certificates of insurance
- (b) the bond of a guarantee insurance or surety company, duly licensed in Ontario pursuant to *The Insurance Act*, and the bond shall be in form approved by the Registrar and shall be conditioned upon the payment of the amounts specified in this Part, and shall not be cancelled or expire except after ten days written notice to the Registrar, but not after the happening of the injury or damage secured by the bond as to such accident, injury, or damage, and the bond shall be filed with the Registrar; surety bond
R.S.O. 1960,
c. 190
- (c) the certificate of the Treasurer that the person named therein has deposited with him a sum of money or securities for money approved by him in the amount or value of \$25,000 for each motor vehicle registered in the name of such person, and the Treasurer shall accept any such deposits and issue a certificate therefor if such deposit is accompanied by evidence that there are no unsatisfied executions against the de- money or securities

positor registered in the office of the sheriff for the county or district in which the depositor resides. R.S.O. 1950, c. 167, s. 87 (1); 1957, c. 44, s. 17 (1, 2).

Minister
may require
additional
proof

(2) The Minister may, in his discretion, at any time require additional proof of financial responsibility to that filed or deposited by any driver or owner pursuant to this Part, and may suspend the driver's licence and owner's permit or permits pending such additional proof. R.S.O. 1950, c. 167, s. 87 (2).

Fleet of
cars

(3) In the case of an owner of ten or more motor vehicles to whom this Part applies, proof of financial responsibility in a form and in an amount, not less than \$100,000, satisfactory to the Minister, may be accepted as sufficient for the purposes of this Part. R.S.O. 1950, c. 167, s. 87 (3); 1957, c. 44, s. 17 (3).

Owners of
public
and public
commercial
vehicles
R.S.O. 1960,
cc. 337, 319

(4) An owner of a motor vehicle to whom this Part applies who holds a licence in respect of the vehicle under *The Public Vehicles Act* or *The Public Commercial Vehicles Act* and who has on file with the Minister a certificate of insurance in good standing shall not be required to give proof of financial responsibility under this Part in respect of the vehicle.

Proof by
non-
residents

(5) A person who is not a resident of Ontario may, for the purposes of this Part, give proof of financial responsibility as provided in subsection 1, or by filing a certificate of insurance in form approved by the Registrar issued by any insurer authorized to transact insurance in the state or province in which such person resides, provided such insurer has filed with the Registrar, in the form prescribed by him,

- (a) a power of attorney authorizing the Registrar to accept service of notice or process for itself and for its insured in any action or proceeding arising out of a motor vehicle accident in Ontario;
- (b) an undertaking to appear in any such action or proceeding of which it has knowledge; and
- (c) an undertaking not to set up as a defence, to any claim, action or proceeding under a motor vehicle liability policy issued by it, a defence that might not be set up if the policy had been issued in Ontario in accordance with the law of Ontario relating to motor vehicle liability policies, and to satisfy up to the limits of liability stated in the policy any judgment rendered and become final against it or its insured by a court in Ontario in any such action or proceeding.

Default of
insurer

(6) If an insurer that has filed the documents described in subsection 5 defaults thereunder, certificates of any such insurer shall not thereafter be accepted as proof of financial

responsibility under this Part so long as the default continues, and the Registrar shall forthwith notify the superintendent of insurance and the registrar of motor vehicles or other officer or officers, if any, in charge of registration of motor vehicles and the licensing of operators in all provinces and states where the certificates of such insurer are accepted as proof of financial responsibility. R.S.O. 1950, c. 167, s. 87 (4-6).

119.—(1) The bond filed with the Registrar and the money or securities deposited with the Treasurer shall be held by him in accordance with the provisions of this Part as security for any judgment against the owner or driver filing the bond or making the deposit in any action arising out of damage caused after the filing or deposit by the operation of a motor vehicle.

Application
of security

(2) Money and securities so deposited with the Treasurer are not subject to any claim or demand, except an execution on a judgment for damages for personal injuries, death, or injury to property, occurring after such deposit as a result of the operation of a motor vehicle.

Not
available
to creditors
generally

(3) If a judgment to which this Part applies is rendered against the principal named in the bond filed with the Registrar, and the judgment is not satisfied within fifteen days after it has been rendered, the judgment creditor may, for his own use and benefit, and at his sole expense, bring an action on the bond in the name of the Treasurer against the persons executing the bond. R.S.O. 1950, c. 167, s. 88.

Action on
security

120. If the Registrar finds that any driver to whom this Part applies was, at the time of the offence for which he was convicted, employed by the owner of the motor vehicle involved therein as chauffeur or motor vehicle operator, whether or not so designated, or was a member of the family or household of the owner, and that there is no motor vehicle registered in Ontario in the name of such driver as an owner, then, if the owner of the motor vehicle submits to the Registrar (who is hereby authorized to accept it) proof of his financial responsibility, as provided by this Part, such chauffeur, operator or other person shall be relieved of the requirement of giving proof of financial responsibility on his own behalf. R.S.O. 1950, c. 167, s. 89.

Chauffeurs
or members
of owner's
family

121. A judgment debtor to whom this Part applies may, on due notice to the judgment creditor, apply to the court in which the trial judgment was obtained, for the privilege of paying the judgment in instalments, and the court may, in its discretion, so order, fixing the amounts and times of payment of the instalments, and while the judgment debtor is not in default in payment of such instalments he shall be deemed not

Payment of
judgments
in instal-
ments

in default for the purposes of this Part in payment of the judgment, and, upon proof of financial responsibility for future accidents pursuant to this Part, the Minister may restore the driver's licence and owner's permits of the judgment debtor, but such driver's licence and owner's permits shall again be suspended and remain suspended, as provided in section 113, if the Registrar is satisfied of default made by the judgment debtor in compliance with the terms of the court order. R.S.O. 1950, c. 167, s. 90.

Report of
convictions,
etc., to
Registrar

122.—(1) It is the duty of the clerk or registrar of the court, or of the court where there is no clerk or registrar, to forward to the Registrar a certified copy or certificate in the form prescribed by the Registrar of,

(a) every judgment that has become final by affirmation upon appeal or by expiry of the time allowed for taking an appeal and is unsatisfied; and

(b) every order committing for trial and every conviction,

to which this Part applies, fifteen days after the judgment becomes final or forthwith upon the making of the order or conviction, as the case may be, and every such certified copy or certificate is *prima facie* evidence of the judgment, order or conviction.

Fee

(2) The clerk or official required to send a certified copy or certificate of a judgment is entitled to a fee of \$1 for each certified copy or certificate, which fee shall be paid by the person for whose benefit the judgment is issued.

Notification
in case of
non-
residents

(3) If the defendant is not resident in Ontario, it is the duty of the Registrar to transmit to the registrar of motor vehicles or other officer or officers, if any, in charge of the registration of motor vehicles and the licensing of operators in the province or state in which the defendant resides a certificate of the order, judgment or conviction. R.S.O. 1950, c. 167, s. 91.

Abstract of
operating
record

123.—(1) The Registrar shall, upon request, furnish to any insurer, surety or other person a certified abstract of the operating record of any person subject to the provisions of this Part, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and the record of any conviction of such person for a contravention of any provision of any statute relating to the operation of motor vehicles, or any judgment against such person for any injury or damage caused by such person, according to the records of the Registrar, and, if there is no record of any such conviction or judgment in the office of the Registrar, the Registrar shall so certify, and the Registrar shall collect as a fee for each such

certificate the sum of \$2. R.S.O. 1950, c. 167, s. 92 (1); 1957, c. 44, s. 18.

(2) The Registrar, upon written request, shall furnish any person who may have been injured in person or property by any motor vehicle with all information of record in his office pertaining to the proof of financial responsibility of any owner or driver of any motor vehicle furnished pursuant to this Part. R.S.O. 1950, c. 167, s. 92 (2). Particulars of security to be furnished

124.—(1) Any owner or driver whose permit or licence has been suspended as herein provided, or whose policy of insurance or surety bond has been cancelled or terminated as herein provided, or who neglects to furnish additional proof of financial responsibility upon the request of the Registrar as herein provided, shall immediately return to the Registrar his driver's licence, his motor vehicle permit or permits, and all licence plates issued thereunder. Return of permit and plates when licence suspended

(2) If any such person fails to return his licence, permits and plates as provided herein, the Registrar may direct any police officer to secure possession thereof and return them to the office of the Registrar. Police officer may secure possession

(3) Every person failing to return his licence, permits and plates when so required, or refusing to deliver the same when requested to do so by the police officer, is liable to a fine of not less than \$10 and not more than \$100 for each offence. R.S.O. 1950, c. 167, s. 93. Penalty

125. If an owner's permit has been suspended under this Part, the permit shall not be transferred nor the motor vehicle in respect of which the permit was issued registered in any other name until the Minister is satisfied that the transfer or registration is proposed in good faith and not for the purpose, or with the effect, of defeating the purposes of this Part. R.S.O. 1950, c. 167, s. 94. Transfer of suspended permit

126.—(1) The Minister may waive the requirement of filing proof of financial responsibility or may cancel any bond or return any certificate of insurance, or the Treasurer may, at the request of the Minister, return any money or securities deposited pursuant to this Part as proof of financial responsibility at any time after two years from the date upon which such proof was required to be given, provided that the owner or driver on whose behalf such proof was given has not, during such period, or any two-year period immediately preceding the request, been convicted of any offence mentioned in section 111, and provided that no action for damages is pending and no judgment is outstanding and unsatisfied in respect of personal injury or damage to property resulting from the Cancellation and return of security

operation of a motor vehicle, and a statutory declaration of the applicant under this section is sufficient evidence of the facts in the absence of evidence to the contrary in the records of the Registrar.

Substitution of security

(2) The Minister may direct the return of any bond, money or securities to the person who furnished the same, upon the acceptance and substitution of other adequate proof of financial responsibility pursuant to this Part. R.S.O. 1950, c. 167, s. 95 (1, 2).

Return of security when motor vehicle is sold

(3) The Minister may direct the return of any bond, money or securities deposited under this Part to the person who furnished the same at any time upon the surrender of the last owner's permit or driver's licence issued to such person, if no written notice has been received by the Registrar of any action brought against such person in respect of the ownership, maintenance or operation of a motor vehicle, and upon the filing by such person with the Registrar of a statutory declaration that such person no longer resides in Ontario, or that such person had made a *bona fide* sale of any and all motor vehicles owned by him, naming the purchaser thereof, and that he does not intend to own or operate a motor vehicle in Ontario within a period of one or more years. R.S.O. 1950, c. 167, s. 95 (3); 1953, c. 46, s. 18 (1).

Return of security on death

(4) In the event of the death of the person on whose behalf any bond, moneys or securities were deposited under this Part, the Minister may direct the return of such bond, moneys or securities. 1953, c. 46, s. 18 (2).

Form of policy

R.S.O. 1960, c. 190

127.—(1) A motor vehicle liability policy referred to in this Part shall be in the form prescribed by *The Insurance Act* and approved thereunder by the Superintendent of Insurance for the purposes of this Part.

Filing of certificate

(2) An insurer that has issued a motor vehicle liability policy shall, as and when the insured may request, deliver to him for filing or file direct with the Registrar a certificate for the purposes of this Part.

Certificate conclusive

(3) A certificate filed with the Registrar for the purposes of this Part shall be deemed to be a conclusive admission by the insurer that a policy has been issued in the form prescribed by subsection 1 and in accordance with the terms of the certificate.

Notice of cancellation of insurance

(4) Every insurer shall notify the Registrar of the cancellation or expiry of any motor vehicle liability policy for which a certificate has been issued to the Registrar under this Part, at least ten days before the effective date of the cancellation or expiry, and, in the absence of such notice of cancellation or expiry, the policy remains in full force and effect.

(5) Where a person, who is not a resident of Ontario, is a party to an action for damages arising out of a motor vehicle accident in Ontario for which indemnity is provided by a motor vehicle liability policy, the insurer named in the policy shall, as soon as it has knowledge of the action from any source, and whether or not liability under the policy is admitted, notify the Registrar in writing, specifying the date and place of the accident and the names and addresses of the parties to the action and of the insurer, which notification shall be open to inspection by parties to the action.

Notice of
accidents
involving
non-
residents

(6) Notwithstanding anything in this Part, the Registrar may decline to accept as proof of financial responsibility the certificates of any insurer that fails to comply with subsection 5. R.S.O. 1950, c. 167, s. 96.

Refusal of
certificates

PART XIII

UNSATISFIED JUDGMENT FUND

128.—(1) Upon the issue or renewal of a chauffeur's licence or operator's licence, there is payable to the Minister by the person to whom the licence or renewal is issued, in addition to the fee prescribed for the licence or renewal, such further fee, referred to in this section as the Unsatisfied Judgment Fund fee, as the Lieutenant Governor in Council may prescribe and the Unsatisfied Judgment Fund fees constitute a fund to be known as the Unsatisfied Judgment Fund. R.S.O. 1950, c. 167, s. 97 (1).

Unsatisfied
Judgment
Fund

(2) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may,

Amount
of fee

- (a) prescribe such Unsatisfied Judgment Fund fee not exceeding \$1 as he may deem adequate; or
- (b) suspend payment of the Unsatisfied Judgment Fund fee for such period as he may prescribe; or
- (c) direct payment out of the Consolidated Revenue Fund of such an amount as may be deemed necessary or advisable to subsidize the Fund. R.S.O. 1950, c. 167, s. 97 (2); 1953, c. 46, s. 19.

(3) Unless the owner of a motor vehicle,

- (a) satisfies the Registrar that the motor vehicle is insured under a motor vehicle liability policy in a form prescribed by *The Insurance Act* and approved thereunder by the Superintendent of Insurance for not less than the amounts prescribed under clauses *a* and *b* of section 117; or

Fee to be
paid by
uninsured
owners on
issue or
transfer of
permit
R.S.O. 1960,
c. 190

- (b) has given a bond as required by clause *b* of subsection 1 of section 118; or
- (c) has deposited with the Treasurer of Ontario a sum of money or securities for money as required by clause *c* of subsection 1 of section 118; or
- (d) has deposited proof of financial responsibility in a form and in an amount satisfactory to the Minister under subsection 3 of section 118; or
- (e) is a government or other body or person exempt from paying registration fees under the regulations or a municipality,

upon the issuance or transfer of a permit for the motor vehicle there shall be paid to the Minister by the person to whom the permit or transfer is issued, in addition to any other fee, a further fee of \$5 or such other fee as may be prescribed by the Lieutenant Governor in Council which shall be paid into and form part of the Unsatisfied Judgment Fund. 1958, c. 36, s. 21.

Application
for payment
out of Fund

129.—(1) Subject to section 130, where a person recovers in any court in Ontario a judgment for damages on account of injury to or the death of any person or damage to property occasioned in Ontario by a motor vehicle owned or operated by the judgment debtor within Ontario, upon the determination of all proceedings including appeals, he may apply for and the Minister shall pay to him the amount of the judgment or of the unsatisfied portion thereof out of the Fund upon the deposit with the Minister of an affidavit of the judgment creditor in the form prescribed by the Lieutenant Governor in Council.

Determina-
tion re
application
by judge

(2) Where an application to the Minister is made under subsection 1, the Minister may at any time within thirty days of the receipt of such application apply by way of originating notice to a judge of the Supreme Court for a finding or determination with respect to any matter in connection with the application for payment out of the Fund.

All persons
reasonably
liable to be
sued

(3) The Minister shall not pay any amount out of the Fund in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal.

Applications
by insurers
prohibited

(4) No application shall be made by or on behalf of an insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of *The Insurance Act* and no

part of the amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of automobile insurance within the meaning of *The Insurance Act* and no part of the amount so sought shall be sought for payment to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of *The Insurance Act*. 1958, c. 36, s. 22 (1).

- (5) The Minister shall not pay out of the Fund, Amount of
payments
from Fund
- (a) more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
 - (b) not more than \$2,000, exclusive of costs, for damage to property resulting from any one accident;

provided that, where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister. R.S.O. 1950, c. 167, s. 98 (5); 1957, c. 44, s. 20 (2, 3); 1958, c. 36, s. 22 (2).

(6) The Minister shall not pay out of the Fund any amount Interest for interest on a judgment or interest on costs.

(7) The Minister shall not pay out of the Fund any amount Payment to
non-
residents in respect of a judgment in favour of a person who ordinarily resides outside of Ontario unless such person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Part is afforded to residents of Ontario. 1953, c. 46, s. 20 (4).

(8) The Minister shall not pay out of the Fund costs of Costs more than actual disbursements and fees as taxed on a party and party basis. R.S.O. 1950, c. 167, s. 98 (6); 1958, c. 36, s. 22 (3).

(9) Where, by reason of an action having been maintained Idem in part by an insurer, an application under this section is for payment out of the Fund of only part of the amount of the judgment obtained in the action, the Minister shall not pay out of the Fund more than that part of the party and party costs of the action that bears the same proportion to the whole of such costs as the part of the judgment to be paid

out of the Fund bears to the total amount of the judgment. R.S.O. 1950, c. 167, s. 98 (7); 1958, c. 36, s. 22 (4).

Solicitor's
fee

(10) Where a solicitor has completed the affidavit referred to in subsection 1 and the assignment of judgment and has issued execution and filed it with the sheriff, he is entitled to a fee of \$30 out of the Fund, and such fee includes disbursements. 1958, c. 36, s. 22 (5).

Direction of
Minister
for payment
of solicitor's
fee

(11) If the Minister is satisfied that it is not feasible to issue and file execution as required under subsection 10, he may waive such requirements and in such case the solicitor is entitled to the fee under subsection 10. 1959, c. 43, s. 10.

Application
of s. 129

130.—(1) Section 129 does not apply in the case of a judgment that has been signed in an action in which,

- (a) the defendant did not enter an appearance; or
- (b) the defendant did not file a statement of defence; or
- (c) the defendant did not appear in person or by counsel at the trial; or
- (d) judgment was signed upon the consent or with the agreement of the defendant,

unless the Minister has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as he may deem advisable under subsection 2. R.S.O. 1950, c. 167, s. 99 (1).

Rights of
Minister

(2) Where the Minister receives notice under subsection 1, he may, if he deems it advisable, enter an appearance, file a defence, appear by counsel at the trial or take such other action as he may deem appropriate on behalf and in the name of the defendant, and may thereupon, on behalf and in the name of the defendant, conduct his defence, and may, where he deems it advisable to do so, consent to judgment in such amount as he may deem proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of such defendant. R.S.O. 1950, c. 167, s. 99 (2); 1953, c. 46, s. 21.

Re-opening
pleadings

(3) Where pleadings have been noted closed, the Minister may, upon giving notice to the registrar, local registrar or clerk of the court that he intends to defend the action on behalf and in the name of the defendant, re-open the pleadings upon praecipe. R.S.O. 1950, c. 167, s. 99 (3).

Assignment
of judgment
to Minister

131.—(1) The Minister shall not pay from the Fund any sum under section 129 until the judgment creditor assigns the judgment to him. R.S.O. 1950, c. 167, s. 100 (1); 1958, c. 36, s. 23.

(2) Upon lodging a copy of the assignment of judgment, certified by the Registrar of Motor Vehicles to be a true copy, with the registrar, local registrar or clerk, as the case may be, of the court in which the judgment was obtained, the Minister shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor.

Lodging
with court

(3) Where execution is issued in the name of the judgment creditor and a copy of the assignment of judgment certified as prescribed in subsection 2 is lodged with the sheriff having the writ of execution, the provisions of subsection 2 apply *mutatis mutandis*. R.S.O. 1950, c. 167, s. 100 (2, 3).

Lodging
with sheriff

132. Subject to section 133, where the chauffeur's licence or operator's licence of any person, or the owner's permit of a motor vehicle registered in his name, has been suspended or cancelled under this Act, and the Minister has paid out of the Fund any amount in or towards satisfaction of a judgment or costs, or both, obtained against that person, the cancellation or suspension shall not be removed, nor the licence or permit restored, nor shall any new licence or permit be issued to such person until he has,

Cancellation
or
suspension
of licence

(a) repaid in full to the Fund the amount paid out; and

(b) filed proof of his financial responsibility as required by Part XII. R.S.O. 1950, c. 167, s. 101; 1955, c. 29, s. 12; 1958, c. 36, s. 24.

133.—(1) The Lieutenant Governor in Council may make regulations providing for the restoration of the drivers' licences and owners' permits of persons indebted to the Fund who are making repayment to the Fund in instalments.

Restoration
of licence on
instalment
payments

(2) The regulations shall prescribe the classes of cases to which they apply, and shall provide for the manner of determining the amount of the instalment payments, the time and place of payment, and the terms and conditions, including proof of financial responsibility, of the restoration of the licences and permits.

Instalment
payments
and conditions
to
restoration
of licence

(3) Upon default of ten days duration occurring in the making of any such payment, all drivers' licences and owners' permits held by the person in default shall be deemed to be suspended. 1955, c. 29, s. 13.

Further
suspension

134.—(1) Where the death of or personal injury to any person is occasioned in Ontario by a motor vehicle but the identity of the motor vehicle and of the driver and owner thereof cannot be established, any person who would have a cause of action against the owner or driver in respect of such death or personal injury may, upon notice to the Registrar of

Where
identity
of vehicle
cannot be
established

Motor Vehicles, apply by way of originating notice, provided he has within ten months of the occurrence given notice in writing of his claim, with particulars thereof, to the Registrar,

- (a) to a judge or local judge of the Supreme Court for an order permitting him to bring an action against the Registrar in the Supreme Court; or
- (b) to a judge of a county or district court for an order permitting him to bring an action against the Registrar in such court or in a division court of the same county or district. R.S.O. 1950, c. 167, s. 102 (1); 1958, c. 36, s. 25.

Order for
action
against
Registrar

(2) No such order permitting the applicant to bring an action against the Registrar shall be made unless the judge is satisfied,

- (a) that the applicant would have a cause of action against the owner or driver of the motor vehicle in respect of the death or personal injury occasioned by the motor vehicle;
- (b) that all reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and driver thereof;
- (c) that the identity of the motor vehicle and the owner and driver thereof cannot be established; and
- (d) that the application is not made by or on behalf of an insurer in respect of any amount paid or payable by reason of the existence of a policy of automobile insurance within the meaning of *The Insurance Act* and that no part of the amount sought to be recovered in the intended action is sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of automobile insurance within the meaning of *The Insurance Act* and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by it by reason of the existence of a policy of automobile insurance within the meaning of *The Insurance Act*;

R.S.O. 1960,
o. 190

provided that the order of such judge is not binding upon the trial judge with respect to the matters enumerated in clauses a, b, c and d and does not preclude him from making a finding inconsistent therewith. 1959, c. 43, s. 11.

Where
owner
known

(3) Where the death or personal injury is occasioned at a time when the motor vehicle is without the owner's consent in the possession of some person other than the owner or his

chauffeur, the application shall be disposed of in the same manner as though the identity of the owner had not been established. R.S.O. 1950, c. 167, s. 102 (3).

135. No action may be brought against the Registrar by or on behalf of any person who ordinarily resides outside of Ontario unless such person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Part is afforded to residents of Ontario. 1954, c. 35, s. 11 (1). Actions
by non-
residents

136.—(1) Where an action in respect of the death of or personal injury to any person occasioned in Ontario by a motor vehicle has been dismissed and the judge in dismissing such action has stated in writing that such death or personal injury was occasioned by a motor vehicle, Exception to
s. 147

(a) the identity of which and of the owner and driver of which has not been established; or

(b) at a time when such motor vehicle was without the consent of the owner in the possession of some person other than the owner or his chauffeur and the identity of the driver has not been established,

the provisions of section 134 shall be available for a period of three months from the date of such dismissal, notwithstanding the provisions of section 147.

(2) Where, pursuant to subsection 1, an application is made under section 134, the applicant is not, by reason of subsection 1, relieved of establishing proof of any of the matters set out in subsection 2 of section 134. R.S.O. 1950, c. 167, s. 103. Proof
required

137.—(1) In an action brought under section 134, the Registrar shall for all purposes of the action be deemed to be the defendant. When
Registrar
deemed
defendant

(2) The Registrar may deny generally the allegations contained in the statement of claim and shall not be required to set forth the facts upon which he relies. R.S.O. 1950, c. 167, s. 104. General
denial

138.—(1) Where an action has been commenced in respect of the death of or injury to any person occasioned in Ontario by a motor vehicle, an application may be made by the plaintiff to add the Registrar as a defendant and the provisions of sections 134 and 137 apply *mutatis mutandis*. Application
to add
Registrar as
defendant

(2) This section shall be deemed not to derogate from the right of any party to an action to add or join any person as a party to the action in accordance with the practice of the court in which the action is pending. R.S.O. 1950, c. 167, s. 105. Other rights
not affected

Where judgment obtained against Registrar

139.—(1) Where judgment is obtained against the Registrar in an action brought under section 134 upon the determination of all proceedings including appeals, the Minister may, subject to subsection 2, pay out of the Fund to the plaintiff in the action the amount thereof. R.S.O. 1950, c. 167, s. 107 (1).

Amount of payment out of Fund

(2) The Minister shall not pay out of the Fund under any judgment, more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident. R.S.O. 1950, c. 167, s. 107 (2); 1957, c. 44, s. 21.

Costs

(3) The Minister shall not pay out of the Fund, costs, including costs of the application made under section 134, of more than actual disbursements and fees as taxed on a party and party basis. R.S.O. 1950, c. 167, s. 107 (3).

Interest

(4) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. 1954, c. 35, s. 13 (1).

Order of Supreme Court as to owner or driver

140.—(1) Where judgment has been obtained against the Registrar in an action brought under section 134, the Registrar may at any time thereafter, by originating notice, apply,

- (a) where judgment has been obtained in the Supreme Court, to a judge or local judge thereof;
- (b) where judgment has been obtained in a county or district court, to a judge thereof; and
- (c) where judgment has been obtained in a division court of a county or district, to a judge of the county or district court of the county or district,

for an order declaring that any person was, at the time of the accident, the owner or driver of the motor vehicle that occasioned the death or injury in respect of which the judgment was obtained.

Owner or driver defendant in action

(2) Upon the making of an order declaring that any person was the owner or driver of a motor vehicle,

- (a) such person shall for the purposes of this Act be deemed to be the defendant in the action in which judgment was given against the Registrar, and the judgment against the Registrar shall be deemed to be a judgment against such person; and

- (b) the Minister shall be deemed to have a judgment against such person for the amount of all moneys paid out of the Fund in respect of the judgment and accordingly has all the rights of a judgment creditor including the right to recover any moneys that would have been payable in respect of the death or injury under any policy of insurance that was in force at the time of the accident.

(3) Where the death or injury was occasioned at a time when the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur, the application shall be disposed of in the same manner as though the identity of the owner had not been established. R.S.O. 1950, c. 167, s. 108. Where owner known

141.—(1) No moneys shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister or solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as taxed on a solicitor and client basis, is filed with the Minister. Bill of costs to be taxed and filed

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection 1 other than the amounts as taxed on a solicitor and client basis in the bill or bills of costs. 1951, c. 34, s. 10. Fees limited to taxed costs

(3) No order is required to tax such a bill. 1953, c. 46, s. 22. No order required

142. The practice and procedure of the Supreme Court or the court in which the application or action is brought, including the right of appeal and the practice and procedure relating to appeals, apply to an application or action brought under this Part. R.S.O. 1950, c. 167, s. 109. Practice and procedure

PART XIV

RECORDS AND REPORTING OF ACCIDENTS AND CONVICTIONS

143.—(1) Every person in charge of a motor vehicle who is directly or indirectly involved in an accident shall, if the accident results in personal injuries, or in damage to property apparently exceeding \$100, report the accident forthwith to the nearest provincial or municipal police officer, and furnish him with such information or written statement concerning the accident as may be required by the officer or by the Registrar. R.S.O. 1950, c. 167, s. 110 (1); 1954, c. 35, s. 14. Duty to report accident

Where person unable to report

(2) Where such person is physically incapable of making a report and there is another occupant of the motor vehicle, such occupant shall make the report. R.S.O. 1950, c. 167, s. 110 (1, 2).

Duty of police officer

(3) A police officer receiving a report of an accident, as required by this section, shall secure from the person making the report, or by other inquiries where necessary, such particulars of the accident, the persons involved, the extent of the personal injuries or property damage, if any, and such other information as may be necessary to complete a written report concerning the accident and shall forward such report to the Registrar within ten days of the accident. R.S.O. 1950, c. 167, s. 110 (3); 1960, c. 45, s. 20.

Registrar may require additional information

(4) The Registrar may require any person involved in an accident, or having knowledge of an accident, the parties thereto, or any personal injuries or property damage resulting therefrom, to furnish, and any police officer to secure, such additional information and make such supplementary reports of the accident as he may deem necessary to complete his records, and to establish, as far as possible, the causes of the accident, the persons responsible, and the extent of the personal injuries and property damage, if any, resulting therefrom.

Reports and statements without prejudice

(5) Any written reports or statements made or furnished under this section are without prejudice, are for the information of the Registrar, and shall not be open to public inspection, and the fact that such reports and statements have been so made or furnished is admissible in evidence solely to prove compliance with this section, and no such reports or statements, or any parts thereof or statement contained therein, are admissible in evidence for any other purpose in any trial arising out of a motor vehicle accident.

Penalty

(6) Every person who fails to report or furnish any information or written statement required by this section is liable to a fine of not less than \$10 and not more than \$50, and in addition the Minister may suspend his licence or permit. R.S.O. 1950, c. 167, s. 110 (4-6).

Notification of damage

144.—(1) Every person who, as a result of an accident or otherwise, operates or drives any vehicle or leads, rides or drives any animal upon the unpaved portion of any highway and thereby damages any shrub, tree, pole, light, sign, sod or other property on the highway shall forthwith report such damage to a police officer or constable or to the Registrar.

Penalty for failure to notify of damage

(2) Every person who contravenes any of the provisions of subsection 1 is liable, for the first offence to a fine of not more than \$10; for the second offence to a fine of not more than \$20;

for the third offence to a fine of not more than \$30; and for any subsequent offence to a fine of not more than \$50. R.S.O. 1950, c. 167, s. 111.

145.—(1) Every coroner who investigates, and every Crown attorney and police officer having knowledge of a fatal accident in which a motor vehicle is involved, shall secure such particulars of the accident, the persons involved, and other information as may be necessary to complete a written report to the Registrar on the forms prescribed for that purpose, and shall transmit the report forthwith to the Registrar. Reports by coroners

(2) Every provincial or municipal official or employee, hospital, charitable institution, insurer or other person or organization shall furnish to the Registrar such reports and other information relating to motor vehicle accident statistics and traffic control generally as may be required by the regulations. Reports re statistics and traffic control

(3) The Lieutenant Governor in Council, by regulation, may allow any person or organization making reports or furnishing information under this section such compensation for so doing as may be deemed proper. R.S.O. 1950, c. 167, s. 112. Compensation may be allowed

146. The Registrar shall,

- (a) prepare and supply to police officers and other persons and organizations blank forms approved by the Minister for accident and other reports which shall call for such particulars concerning accidents, the person involved, and the extent of the personal injuries and property damage, if any, resulting therefrom, and such other information as may be required by the regulations; Duties of Registrar: supply of accident report forms
- (b) make such investigation of, and call for such written reports concerning, motor vehicle accidents, traffic conditions, and other matters, as he may deem necessary and proper, and for that purpose may require the assistance of any provincial or municipal police officer; investigation of accidents
- (c) keep, keeping of records
 - (i) a record of all motor vehicle accidents in Ontario, reported to him or concerning which he procures information,
 - (ii) a record of all convictions for offences under this Act or under the provisions of the *Criminal Code* (Canada) relating to driving on highways, reported to him pursuant to section 152, and of such other convictions as he may deem proper, 1953-54, c. 51 (Can.)

- (iii) a record of all drivers' licences and owners' permits issued, suspended, revoked, cancelled or revived under this Act,
- (iv) a record of all unsatisfied judgments rendered against persons holding owners' permits or drivers' licences under this Act, or non-residents reported to him pursuant to this Act,
- (v) a record of all persons required to show evidence of financial responsibility pursuant to the provisions of Part XII,
- (vi) an operating record of every chauffeur and operator, which record shall show all reported convictions of such chauffeur or operator for a contravention of any provision of any statute relating to the operation of motor vehicles, and all reported unsatisfied judgments against such person for any injury or damage caused by such person while operating a motor vehicle and all accidents in which the records of the Registrar indicate such chauffeur or operator has been involved, and such other information as the Registrar may deem proper, and
- (vii) such other records as he may be directed to keep by the Minister;

accident
and traffic
statistics

- (d) develop adequate uniform methods of accident and traffic statistics, and study accident causes and trends, traffic problems, and regulations;

annual
report for
Minister

- (e) prepare for the Minister an annual report showing the results of such reporting, collection, analysis and study, and embodying his recommendations for the prevention of motor vehicle accidents and the solution of traffic problems, and such report shall be printed and published forthwith upon completion. R.S.O. 1950, c. 167, s. 113.

PART XV

PROCEDURE, ARRESTS AND PENALTIES

Time limit
for insti-
tuting civil
actions

147.—(1) Subject to subsections 2 and 3, no action shall be brought against a person for the recovery of damages occasioned by a motor vehicle after the expiration of twelve months from the time when the damages were sustained.

(2) Where death is caused, the action may be brought within the time limited by *The Fatal Accidents Act*.

Limitation
in case of
death
R.S.O. 1960,
c. 138
Action for
damages

(3) Notwithstanding subsections 1 and 2, when an action is brought within the time limited by this Act for the recovery of damages occasioned by a motor vehicle and a counterclaim is made or third party proceedings are instituted by a defendant in respect of damages occasioned in the same accident, the lapse of time herein limited is not a bar to the counterclaim or third party proceedings. R.S.O. 1950, c. 167, s. 61.

148.—(1) Subject to subsection 2, the owner of a motor vehicle shall incur the penalties provided for any contravention of this Act or of any regulation made by the Lieutenant Governor in Council or of any municipal by-law for regulating traffic approved by the Department unless at the time of the contravention the motor vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent, and the driver of a motor vehicle not being the owner shall also incur the penalties provided for any such contravention. R.S.O. 1950, c. 167, s. 49; 1958, c. 36, s. 14 (1).

Motor
vehicle
owner and
driver liable
for
penalties

(2) The owner of a motor vehicle except when he is also the driver shall not incur the penalties provided for any contravention of any of the provisions of sections 59 to 87, 91, 94, 99 and 143 or any regulation or by-law made or passed thereunder. 1958, c. 36, s. 14 (2).

Owner when
not driver
not liable
for penalties

149. Every person who contravenes any provision of this Act or of the regulations is guilty of an offence and the penalties imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act*. R.S.O. 1950, c. 167, s. 62.

Recovery

150. No penalty or imprisonment is a bar to the recovery of damages by the injured person. R.S.O. 1950, c. 167, s. 63.

Right to
damages
reserved

151.—(1) The fines collected for offences under this Act shall be paid over,

Disposition
of fines

(a) where the offence was committed in a city or town on any highway except a controlled-access highway, to the city or town;

(b) where the offence was committed in a village or township,

(i) on any highway except the King's Highway,
or

(ii) that has an agreement under subsection 2,

to the village or township; and

(c) in every other case, to the Department.

Agreement
with villages
and
townships

(2) The Minister and the council of any village or township may enter into agreement upon such terms and conditions as the Minister deems proper, including the right of the Minister to terminate the agreement at any time, for the payment over to the village or township of the fines collected for offences under this Act where the offence was committed on the King's Highway except a controlled-access highway in the village or township and where the information and complaint was laid by a constable of a village or township. 1956, c. 29, s. 13.

Report on
conviction
to Registrar
1953-54,
o. 51 (Can.)

152.—(1) A judge, magistrate or justice of the peace who makes a conviction under this Act or under any other Act of the Legislature or the *Criminal Code* (Canada) involving the use of a motor vehicle or under a municipal by-law regulating traffic on the highways, except convictions for offences for standing or parking, shall forthwith certify the conviction to the Registrar, setting out the name, address and description of the person convicted, the number of his operator's or chauffeur's licence, the number of the permit of the motor vehicle with which the offence was committed, the time the offence was committed and the provision of the Act or by-law contravened. 1959, c. 43, s. 9.

Evidence

(2) A copy of any writing, paper or document filed in the Department pursuant to this Act, or any statement containing information from the records required to be kept under this Act, purporting to be certified by the Registrar under the seal of the Department, shall be received in evidence in all courts without proof of the seal or signature and is *prima facie* evidence of the facts contained therein.

Signature of
Registrar

(3) An engraved, lithographed, printed or otherwise mechanically reproduced facsimile signature of the Registrar is sufficient authentication of any such copy or statement. 1953, c. 46, s. 14.

When owner
may appear
before
justice of
the peace

153.—(1) If an owner of a motor vehicle is served with a summons to appear in a local municipality other than that in which he resides for an offence against this Act, and his defence is that neither he nor his motor vehicle was at the place of the alleged offence at the time such offence occurred, and that the summons must have been issued against him through an error of the informant as to the number on the official number plate, then and in that case only he may appear before a justice of the peace in the local municipality in which he resides and, in the same manner as if he were being tried for an offence against this Act, give evidence by himself and corroborated by the evidence of at least two other credible witnesses that neither

he nor his motor vehicle was at the place of the alleged offence at the time such offence occurred, and that the summons must have been issued against him through an error of the informant as to the number on the official number plate. R.S.O. 1950, c. 167, s. 66 (1); 1951, c. 34, s. 8.

(2) The justice, if satisfied of the truth of such evidence, shall forthwith make out a certificate in the form set out in the Schedule to this Act and forward it by registered mail to the justice before whom the summons is returnable. Certificate

(3) The justice before whom the summons is returnable shall, upon receiving such certificate, thereupon dismiss the charge unless he has reason to believe that the testimony is untrue in whole or in part, in which case he may adjourn the case and again summon the defendant, who shall then be required to attend before him at the place and time mentioned in the summons. R.S.O. 1950, c. 167, s. 66 (2, 3). Dismissal
or adjourn-
ment

154. Every person who contravenes any of the provisions of this Act or of any regulation where a penalty for the contravention is not otherwise provided for herein is liable, for the first offence to a fine of not less than \$5 and not more than \$50; for the second offence to a fine of not less than \$10 and not more than \$100; and for any subsequent offence to a fine of not less than \$20 and not more than \$200. 1957, c. 44, s. 13. General
penalty

155. Where a penalty is provided in this Act for a first, second, third or subsequent offence, the words "first", "second", "third" or "subsequent" relate only to offences committed in any twelve-month period; but this does not apply to offences under the sections referred to in subsection 1 of section 157. R.S.O. 1950, c. 167, s. 71; 1958, c. 36, s. 19. Interpre-
tation, first,
second,
third offence

156.—(1) Every person called upon to assist a constable or officer appointed for carrying out the provisions of this Act in the arrest of a person suspected of having committed any offence mentioned in subsection 2 may assist if he knows that the person calling on him for assistance is a constable or officer appointed for carrying out the provisions of this Act, and does not know that there are no reasonable grounds for the suspicion. Assisting
officers

(2) Every constable or officer appointed for carrying out the provisions of this Act, who, on reasonable and probable grounds, believes that a contravention of any of the provisions of subsections 1 and 2 of section 7; subsections 1 and 3 of section 8; subsection 1 of section 9; subsection 1 of section 10; subsection 2 or 3 of section 25; section 26, 60, 91 or 100 has been committed, whether it has been committed or not, and Arrests by
officer
without
warrant

who, on reasonable and probable grounds, believes that any person has committed such contravention, may arrest such person without warrant whether such person is guilty or not.

Arresting
on view

(3) Every person may arrest without warrant any person whom he finds committing any such contravention.

Detaining
vehicle
when arrest
is made

(4) A constable or officer appointed for carrying out the provisions of this Act, making an arrest without warrant, may detain the motor vehicle with which the offence was committed until the final disposition of any prosecution under this Act or under the *Criminal Code* (Canada), but the motor vehicle may be released on security for its production being given to the satisfaction of a justice of the peace or a magistrate.

1953-54,
c. 51 (Can.)

Care and
storage
charges

(5) All costs and charges for the care and storage of a motor vehicle detained under subsection 4 are a lien upon the motor vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*.

R.S.O. 1960,
c. 233

Duty of
person
arresting
without
warrant

(6) A constable or officer appointed for carrying out the provisions of this Act, making an arrest without warrant, shall, with reasonable diligence, take the person arrested before a justice of the peace or magistrate to be dealt with according to law. R.S.O. 1950, c. 167, s. 58.

Impound-
ing motor
vehicle

157.—(1) In the event of,

1953-54,
c. 51 (Can.)

- (a) a conviction under section 25 or 26 of this Act or section 222 or subsection 3 of section 225 of the *Criminal Code* (Canada); or
- (b) a second conviction under subsection 2 of section 221 of the *Criminal Code* (Canada); or
- (c) a third conviction under section 6, 13, 16, 18, 60 or 91, or any of them,

the motor vehicle driven by or under the care or control of the person convicted at the time of the commission of the offence or last offence, as the case may be, shall be seized, impounded and taken into custody of the law for a period of three months, provided the motor vehicle was at such time owned by or registered in the name of such person, or owned by or registered in the name of the husband, wife, parent or dependent child of such person. R.S.O. 1950, c. 167, s. 59 (1); 1955, c. 29, s. 11; 1959, c. 43, s. 8.

Second
or third
conviction

(2) Where there is a conviction under the section mentioned in clause *b* of subsection 1 and a previous conviction under a section mentioned in clause *a* of subsection 1, such first-mentioned conviction shall be deemed a second conviction, and,

where there is a conviction under a section mentioned in clause *c* of subsection 1 and a previous conviction or two previous convictions under a section or sections mentioned in clause *a* or *b* of subsection 1, such first-mentioned conviction shall be deemed to be a second or third conviction, as the case may be.

(3) Where a person pleads guilty to any of the offences mentioned in subsection 1, the provisions of subsection 1 do not apply unless the person has been given notice, Seizure, etc., of vehicle upon conviction of certain offences

- (a) by a printed or written statement upon or accompanying the summons; or
- (b) by the magistrate or judge verbally before accepting the plea,

in the following form or to the like effect:

"The Highway Traffic Act provides that upon conviction of the offence with which you are charged, in the circumstances indicated therein, the motor vehicle which was driven by you or under your care or control at the time of the commission of the offence shall be seized, impounded and taken into the custody of the law".

(4) All costs and charges for the care and storage of the motor vehicle are a lien upon the motor vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*. Costs and charges for care and storage R.S.O. 1960, c. 233

(5) If the person so convicted or the owner gives sufficient security to the convicting magistrate or justice of the peace, by bond, recognizance, or otherwise, that the motor vehicle shall not be operated upon a highway during such period of three months, the same may be delivered to the person so convicted or the owner thereof, and, if the motor vehicle is operated upon a highway during such period, it shall be deemed to be operated without a permit. Release of vehicle on security given by owner

(6) A constable or an officer appointed for carrying out the provisions of this Act, upon the discovery of a motor vehicle apparently abandoned on or near a highway or of a motor vehicle without proper registration plates, shall take the motor vehicle into his custody and may cause it to be taken to and stored in a suitable place and all costs and charges for removal, care or storage thereof are a lien upon the motor vehicle, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*. R.S.O. 1950, c. 167, s. 59 (2-6). Abandoned vehicle

Impound-
ing of
vehicle
on appeal

158. If a person to whom section 157 applies enters an appeal against his conviction and there is filed with the convicting magistrate sufficient security for the production of the motor vehicle if the appeal should fail, section 157 does not apply unless the conviction is sustained on appeal. 1957, c. 44, s. 14, *part*.

SCHEDULE*(Section 153 (2))***CERTIFICATE OF JUSTICE**

I, *(name of Justice)*, a Justice of the Peace in and for the county of
hereby certify:

1. That *(name of defendant)*, of the
 ofin the county of
(occupation), this day appeared before me and produced to me a summons
 issued by *(name of Justice issuing summons)*, a Justice of the Peace in and
 for the county of, for an offence against *The*
Highway Traffic Act, said to have been committed with respect to a car
 bearing the official number plate numberfor this year,
 the offence being alleged to have been committed on the
 ofin the county of
 on theday of

2. That the *(name of defendant)* has deposed before me that neither
 he nor his motor vehicle was at such place on the
 day of, 19....., and that the summons must have
 been issued against him through an error of the informant as to the number
 on the official number plate, and his testimony in this respect has been
 corroborated by the testimony of two credible witnesses, namely *(here*
insert the names of two witnesses).

3. The depositions of the defendant and of the witnesses referred to in
 paragraph 2 of this certificate are attached hereto.

4. That I am satisfied of the truth of the testimony given before me
 this day by *(name of defendant and two witnesses)*, and give this certificate
 in pursuance of subsection 2 of section 153 of *The Highway Traffic Act*.

Dated atthisday of
, 19.....

.....J.P.

(NOTE.—Attach depositions of defendant and witnesses to this certificate.)

CHAPTER 173

The Homemakers and Nurses Services Act**1. In this Act,**Interpre-
tation

- (a) "child" means a person under sixteen years of age;
- (b) "Director" means the Director of Homemakers and Nurses Services of the Department of Public Welfare;
- (c) "Minister" means the Minister of Public Welfare;
- (d) "municipal welfare administrator" means a person appointed as such under this Act;
- (e) "physician" means a duly qualified medical practitioner;
- (f) "regional welfare administrator" means a person employed as such by the Department of Public Welfare;
- (g) "regulations" means the regulations made under this Act. 1958, c. 37, s. 1.

2. The Director shall,Duties of
Director

- (a) exercise general supervision over the administration of this Act and the regulations; and
- (b) advise regional welfare administrators, municipal welfare administrators and others as to the manner in which their duties under this Act are to be performed. 1958, c. 37, s. 2.

3. The council of a municipality may, with the approval of the Minister, appoint a municipal welfare administrator for the purposes of this Act. 1958, c. 37, s. 3.

Appoint-
ment of
municipal
welfare
administra-
tor

4. The Director, every regional welfare administrator and every municipal welfare administrator is, in the performance of his duties under this Act, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1958, c. 37, s. 4.

Power to
take
affidavitsR.S.O. 1960,
c. 59

Local
administra-
tion

5.—(1) The council of a city, town, village or township may employ homemakers or nurses, or both, for the purposes of this Act or may enter into agreement with any organization that is approved by the Minister under which the organization undertakes to furnish homemakers or nurses, or both, for the purposes of this Act.

County
administra-
tion

(2) Instead of the local municipalities that are within a county for municipal purposes furnishing services under this Act independently of one another, the council of the county may exercise the powers mentioned in subsection 1 and furnish such services in all such local municipalities, except that any such local municipality that has a population of more than 5,000 according to its last revised assessment roll may by agreement with the county furnish such services independently of the county. 1958, c. 37, s. 5.

Home-
makers
services

6. The services of a homemaker may be furnished under this Act,

- (a)** for households in which there is a child who might otherwise be cared for in other than his own home during the temporary absence, illness or convalescence of his mother or other person in whose charge he is, where an adult is available to furnish any care that the child may require when the homemaker is not on duty; or
- (b)** for a person who is elderly, handicapped, ill or convalescent and who requires such services on a part-time or visitation basis in order that he may remain in his own home, where an adult is available to furnish any care that he may require when the homemaker is not on duty. 1958, c. 37, s. 6.

Nurses
services

7. The services of a nurse may be furnished under this Act on a visitation basis, in the home of a person who is elderly, handicapped, ill or convalescent, where a physician certifies that such services are necessary to enable the person to remain in his own home or to make possible his return to his home from a hospital or other institution. 1958, c. 37, s. 7.

Application
for services

8. Application for the services of a homemaker or a nurse under this Act shall be made, where the person applying for the services resides in a municipality, to the municipal welfare administrator of that municipality or, where the person applying for the services resides in territory without municipal organization, to the regional welfare administrator of that territory. 1958, c. 37, s. 8.

9.—(1) Where the services of a homemaker or nurse are furnished under this Act, the person who has applied therefor shall pay the fees for such services for so long as and to the extent that his financial circumstances permit as determined by the regulations. Payment
for services

(2) Where the person's financial circumstances as determined by the regulations do not permit him to pay in full the fees for such services, they may, with the approval of the regional welfare administrator, be paid for in whole or in part by the municipality, in which case the percentage fixed by the regulations of the amount so paid shall be reimbursed to the municipality by the Province in accordance with the regulations or, where the applicant resides in territory without municipal organization, the services may, with the approval of the regional welfare administrator, be paid for by the Province in accordance with the regulations. 1958, c. 37, s. 9. Idem

10. The provincial contribution to the cost of furnishing services under this Act and the expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1958, c. 37, s. 10, *amended*. Moneys for
purposes
of Act

11. The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining homemaking services and nursing services;
- (b) prescribing the qualifications of homemakers and nurses;
- (c) establishing courses of instruction for homemakers and providing for the granting of certificates to those who have satisfactorily completed the course of instruction;
- (d) adding to or extending the conditions under which services may be furnished;
- (e) adding to or extending the classes of persons to whom services may be furnished;
- (f) fixing the percentage of the amount and prescribing the manner of computing the amount paid by a municipality that will be reimbursed by the Province under section 9;
- (g) prescribing residence qualifications for applicants or recipients;

- (*h*) defining "residence", "reside" and similar expressions and the expression "municipality to which an applicant for or a recipient of services belongs", and for requiring a municipality to which an applicant for or a recipient of services belongs to reimburse the municipality that has paid a part of the cost of the services and providing for such reimbursement;
 - (*i*) prescribing the conditions, terms and manner under which claims may be submitted by municipalities to the Province for reimbursement of moneys under section 9;
 - (*j*) prescribing maximum fees for services to which the Province may contribute;
 - (*k*) prescribing the maximum financial circumstances of applicants for or recipients of services to which the Province may contribute to the cost;
 - (*l*) providing for and requiring inspection of the records and accounts of municipalities that pertain to cases under this Act to which the Province may contribute to the cost;
 - (*m*) prescribing forms and providing for their use;
 - (*n*) respecting any matter deemed necessary or advisable for the effective carrying out of the provisions of this Act. 1958, c. 37, s. 11.
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CHAPTER 174

The Homes for the Aged Act**1. In this Act,**Interpre-
tation

- (a) "home" means a home for the aged established and maintained by a municipality;
- (b) "joint home" means a home for the aged established and maintained by two or more municipalities;
- (c) "last revised assessment rolls as equalized" means last revised assessment rolls as revised and equalized for the purposes of this Act by the assessor of the territorial district, or, if there is no district assessor, by the Department of Municipal Affairs;
- (d) "Minister" means the Minister of Public Welfare;
- (e) "municipality" means a county, city or separated town, but in a territorial district "municipality" means a city, town, village or township;
- (f) "special-home care" means care and maintenance provided in a private residence. 1955, c. 30, s. 1; 1956, c. 30, s. 1.

2.—(1) Except as otherwise provided in subsection 2 or in section 5, every municipality not in a territorial district shall establish and maintain a home. Homes not in districts, establishment, etc.

(2) In lieu of establishing separate homes, the councils of two or more such municipalities may, with the approval in writing of the Minister, enter into an agreement to establish and maintain a joint home. 1955, c. 30, s. 2. Joint homes not in districts; establishment, etc.

3. A municipality that has a population of more than 15,000 and that is located in a territorial district may, with the written approval of the Minister, establish and maintain a home, or the council of any such municipality and the councils of one or more other municipalities in the same territorial district may enter into an agreement to establish and maintain a joint home. 1958, c. 38, s. 1. Homes and joint homes in territorial districts

4.—(1) When a by-law authorizing the establishment and maintenance of a home under a board of management has been passed by a majority of the municipalities in a territorial Homes in districts; establishment, etc.

district, all of the municipalities in the district shall contribute to its establishment and maintenance.

Trans-
mission of
by-law

(2) When a by-law under subsection 1 is passed, a certified copy thereof shall be transmitted forthwith to the Minister.

Where home
established
under s. 3.

(3) Where a home or a joint home is established and maintained under section 3, the municipality or municipalities that establish and maintain it shall be deemed not to be within the territorial district for the purposes of this section and sections 19 to 22. 1955, c. 30, s. 4.

Provision
for admis-
sion to
and care in
existing
home

5. Notwithstanding sections 2, 3 and 4, the council of any municipality not having a home and not participating in a joint home may, with the approval in writing of the Minister, enter into an agreement with the council of a municipality having a home, the councils of the municipalities having a joint home, or the board of a home providing for admission thereto and maintenance therein of residents of the municipality. 1955, c. 30, s. 5.

Committee
of manage-
ment,
appoint-
ment

6.—(1) The council of a municipality establishing and maintaining a home or the councils of the municipalities establishing and maintaining a joint home may appoint from among the members of the council or councils, as the case may be, a committee of management for the home or joint home.

composition

(2) A committee of management, in the case of a home, shall be composed of not less than three and not more than five members of the council of the municipality, and, in the case of a joint home, shall be composed of not more than three members of the council of each of the participating municipalities. 1955, c. 30, s. 6.

Board of
manage-
ment,
appoint-
ment

7.—(1) The Lieutenant Governor in Council may appoint a board of management, which shall be a corporation, for a home established and maintained under section 4.

composition

(2) A board of management shall consist of five persons residing in the territorial district.

powers

(3) The board shall select the site for the home.

Idem

(4) The home shall be vested in the board and it shall have charge thereof. 1955, c. 30, s. 7.

Superin-
tendent,
appoint-
ment

8.—(1) The council of a municipality that establishes and maintains a home, or the councils of the municipalities that establish and maintain a joint home or the board of management of a home shall, with the approval of the Lieutenant Governor in Council, appoint a superintendent therefor.

(2) The council of a municipality that establishes and maintains a home, or the councils of the municipalities that establish and maintain a joint home or the board of management of a home may appoint such staff as the superintendent requires for the carrying out of his duties. 1955, c. 30, s. 8.

9.—(1) A building shall not be acquired, erected or altered for use as a home or joint home until the site and plans therefor have been approved by the Minister.

(2) There shall be no change in site and no sale or disposal of any part thereof and no alteration to or in any building or to the grounds of the home or joint home without the approval of the Minister. 1958, c. 38, s. 2.

10.—(1) The council of a municipality having a home, the councils of the municipalities participating in a joint home or the board of management of a home may enter into an agreement with the council of any municipality for connecting the home or joint home with the sewerage system of such municipality.

(2) The council of a municipality having a home, the councils of the municipalities participating in a joint home or the board of management of a home may enter into an agreement with The Hydro-Electric Power Commission of Ontario or with the council of any municipality or person owning or operating a waterworks system, or works for the production and supply of electricity for light, heat or power, for the supply of water for domestic purposes and for fire protection or of electricity for light, heat or power purposes at the home or joint home.

(3) For the purpose of connecting such home or joint home with any such system or works, any lands or highways may be entered upon, passed over or dug up, sewers constructed, pipes laid down, poles or wires put in place and all work done in or upon such lands and highways as may be necessary, due compensation being made to the owners thereof as provided by *The Municipal Act*. 1955, c. 30, s. 10.

11. Subject to the approval of the Ontario Municipal Board and without the assent of the electors, a municipality may issue debentures for raising such sums as may be necessary for the purchase of a site or for the erection of buildings for a home or joint home, or for the purchase of land to be used in connection therewith, or for any addition to or improvement of such buildings, or for the purpose of any system or works authorized by section 10. 1955, c. 30, s. 11.

Equipment,
etc., for
handicrafts

12.—(1) The council of a municipality having a home, the councils of the municipalities participating in a joint home or the board of management of a home shall provide such equipment and materials as will enable the residents of the home or joint home to engage in handicrafts and other such occupations.

Residents
encouraged
to work

(2) Upon certification by a legally qualified medical practitioner that a resident of a home or joint home is physically able to engage in household, farm or other work, in or about the home or joint home, the superintendent thereof shall encourage the resident to engage in such work. 1955, c. 30, s. 12.

Who may be
admitted

13. Any person,

- (a) who is over the age of sixty years and incapable of supporting himself or unable to care properly for himself;
- (b) who is mentally incompetent and ineligible for committal to an institution under *The Mental Hospitals Act* and who requires care, supervision and control for his protection;
- (c) who is over the age of sixty years and who is confined to bed but does not require care in a public hospital or hospital for incurables; or
- (d) who is under the age of sixty years who because of special circumstances cannot be cared for adequately elsewhere, if his admission is approved by the Minister,

R.S.O. 1960,
c. 236

may be admitted to a home or joint home by the superintendent thereof upon receipt of,

- (e) an authorization in the prescribed form signed by the head of the council of a city, town, village or township, or in a county in which the county council has designated the warden to sign such authorizations, by the warden, or in a city having a population of not less than 100,000, by such member of the council as the mayor has designated, or where the person resides in unorganized territory, by the provincial welfare administrator of the territorial district;
- (f) an application in the prescribed form signed by the applicant;
- (g) a consent to inspect assets in the prescribed form signed by the applicant;

- (h) a statement of particulars in the prescribed form signed by the welfare officer of the municipality or territorial district; and
- (i) a statement in the prescribed form signed by a legally qualified medical practitioner designated by the municipality or municipalities having the home or participating in the joint home or by the board of a home as the physician for the home or joint home. 1955, c. 30, s. 13.

14.—(1) A magistrate may, by writing under his hand, commit any person who is over sixty years of age and who is unable to care properly for himself to a home or joint home, and where a person is so committed, the magistrate shall determine the municipality in which the person is resident and ensure that the statement mentioned in clause *i* of section 13 has been completed. Committal by magistrate

(2) If, in his opinion, it is in the interest of the welfare of the person, any magistrate may, by writing under his hand, rescind any order made under subsection 1. 1955, c. 30, s. 14. Committal order may be rescinded

15.—(1) Upon the recommendation of the superintendent, any resident of a home or joint home or any person admissible to a home or joint home may, in lieu of being maintained in the home or joint home, be placed in special-home care. 1955, c. 30, s. 15 (1). Special-home care

(2) Where a person is placed in special-home care, the Treasurer of Ontario shall pay monthly out of the moneys appropriated therefor by the Legislature to the municipality or to the treasurer of the home or joint home, as the case may be, an amount comprising the percentage of the cost thereof prescribed in the regulations, to be computed in the manner prescribed by the regulations. 1958, c. 38, s. 3. Province to share cost

(3) A person placed in special-home care may be transferred to the home or joint home at any time. Person may be transferred

(4) A person placed in special-home care shall for all other purposes be deemed to be a resident of the home or joint home. Person considered a resident of the home

(5) The council of a city not having a home and not participating in a joint home may appoint one or more persons to administer this section for the city until such time as it has a home or participates in a joint home. 1955, c. 30, s. 15 (3-5). In cities without homes

16.—(1) For the purposes of this Act, an applicant for admission to a home or joint home shall be deemed to be a resident of the municipality in which he last resided for a period of twelve consecutive months. Residence

Idem

(2) In determining residence under subsection 1, any period of time during which the applicant was an inmate of or resident in a hospital, nursing home, charitable institution or institution for custodial, medical or other care shall not be counted. 1955, c. 30, s. 16.

Affidavits

17. A public welfare administrator or public welfare commissioner of a county, city, separated town, town, village or township, or any of his assistants authorized by the municipal council, and a district welfare administrator or district welfare supervisor of the Department of Public Welfare and any other employee of the Department of Public Welfare designated by the Minister under this Act has power to take affidavits and statutory declarations for the purpose of this Act in the same manner and to the same extent as a commissioner for taking affidavits in Ontario. 1957, c. 45, s. 2.

Reimbursement for maintenance costs

18.—(1) A resident of a home or joint home having financial circumstances as prescribed in the regulations shall reimburse the authority responsible for the payment of the cost of his maintenance. 1960, c. 46, s. 1.

Recovery of maintenance costs

(2) A municipality having a home or participating in a joint home or having an agreement under section 5 or the board of a home may recover in a court of competent jurisdiction from a person who was or is a resident of the home or joint home or, in the event of his death, from his estate, all or any part of the cost of his maintenance that has not been paid under subsection 1. 1957, c. 45, s. 3.

Maintenance of homes in districts

19.—(1) The cost of maintaining a home established under section 4 shall be defrayed in each year by the municipalities in the territorial district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized. 1955, c. 30, s. 19 (1).

Assessment to be revised and equalized

(2) For the purposes of this Act, the assessor of a territorial district or, if there is no district assessor, the Department of Municipal Affairs shall before the 10th day of February in each year revise and equalize the assessment rolls of the municipalities in each territorial district. 1957, c. 45, s. 4 (1).

Estimates and apportionment

(3) The board of management shall in each year apportion the amount that it estimates will be required to defray its expenditures for that year among the municipalities in the district, and shall on or before the 25th day of February notify the clerk of each such municipality of the amount to be provided by that municipality. 1955, c. 30, s. 19 (2).

Levy and collection

(4) Each such municipality shall include the amount required to be provided by it under this section in its estimates

for the then current year and shall levy and collect the amount in like manner as taxes and pay the amount to the board of management on demand. 1955, c. 30, s. 19 (3); 1957, c. 45, s. 4 (2).

(5) Where in any year the last revised assessment rolls of the municipalities in the district are not equalized by the district assessor or the Department of Municipal Affairs before the 10th day of February, the board of management may apportion the amount that it estimates to be required in proportion to the amounts of their assessments according to their assessment rolls as returned, and in that case shall re-apportion the amount and make the necessary adjustments after the equalization is completed. 1955, c. 30, s. 19 (4). Where assessments not equalized in time

(6) Where in any year the last revised assessment rolls of the municipalities in a district are revised and equalized and have been appealed, the board of management may apportion the amount that it estimates to be required in proportion to the amounts of their assessment as revised and equalized, and in that case shall reapportion the amount and make the necessary adjustments in accordance with the decision of the Ontario Municipal Board or the judgment of a court. 1957, c. 45, s. 4 (3). Where equalized assessment appealed

20.—(1) The cost of establishing a new home under section 4 in a district or of an addition to or extension of a home established under that section shall be defrayed by the municipalities in the district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized. 1955, c. 30, s. 20 (1). Capital cost of homes in districts

(2) To assist in defraying the cost of establishing such new home or the addition to or extension of such existing home, the Lieutenant Governor in Council may direct payment out of the moneys appropriated therefor by the Legislature of such amount as he determines in accordance with the regulations and based upon the proportion of such cost that is allocated to the unorganized parts of the territorial district in which the home is established. 1955, c. 30, s. 20 (2); 1956, c. 30, s. 3, *amended*. Provincial subsidy

(3) The board of management shall apportion the amount that it estimates will be required to establish the new home or the addition to or extension of the existing home among the municipalities in the district and shall notify the clerk of each such municipality of the amount to be provided by that municipality. Apportionment

(4) Each such municipality shall, within ninety days after receipt of the notice, determine the method it will use in raising the amount required to be provided by it, and shall Raising of funds

take such steps as are necessary to carry the determination into effect and shall raise the amount and pay it over to the board of management of the home. 1955, c. 30, s. 20 (3, 4).

Alternative
method of
raising
funds

21.—(1) The Ontario Municipal Board, upon the application of the council or one or more of the municipalities in the territorial district, may by order,

- (a) authorize one of the municipalities in the district to raise the whole amount required by the issue of its debentures; or
- (b) authorize two or more of the municipalities in the district to raise the whole amount required by the issue of their debentures in such amounts as the Ontario Municipal Board orders,

and thereupon the municipality or municipalities shall raise the whole amount required by the issue of debentures and shall pay the proceeds to the board of management of the home, and in such case subsection 4 of section 20 does not apply.

Apportion-
ment of
carrying
charges

(2) Where debentures are issued to provide the whole amount required as provided in subsection 1, the board of management shall in each year during the currency of the debentures apportion the amount that will be required in that year to pay the amounts of principal and interest on the debentures among the municipalities in the district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized, and shall include the amount to be provided by each such municipality as a separate item in its estimates submitted to the clerk of the municipality under subsection 2 of section 19, and in such case subsections 3 and 4 of that section apply.

Distribution
of carrying
charges

(3) The board of management shall in each year distribute the moneys received under subsection 2 to the municipality that issued the debentures or, where two or more municipalities issued the debentures, to such municipalities in the same proportion as the amount raised by each such municipality bore to the total amount raised. 1955, c. 30, s. 21.

Capital
cost of
homes
established
or altered
before
April 1, 1954

22.—(1) Where before the 1st day of April, 1954, a new home under section 4 was established or an addition to or an extension of an existing home under that section was made, the board of management, upon the request expressed by resolutions of a majority of the councils of the municipalities in the territorial district, shall apply to the Ontario Municipal Board for an order providing that subsections 2 and 3 shall apply in respect of the cost incurred in respect of the new home or the addition or extension.

(2) Where the Ontario Municipal Board makes an order ^{Idem} under subsection 1,

(a) the board of management shall determine the annual amount that would have been required to pay the annual amounts of principal and interest if debentures, payable in annual instalments with interest at 5 per cent per annum for a term of twenty years, had been issued by one municipality to finance the cost of the establishment and erection of the new home or the addition to or extension of the existing home; and

(b) the board of management shall in each year during the remainder of the term of twenty years apportion the annual amount so determined among the municipalities in the district in proportion to the amounts of their assessments according to their last revised assessment rolls as equalized, and shall include the amount to be provided by each such municipality as a separate item in its estimates submitted to the clerk of the municipality under subsection 2 of section 19, and in such case subsections 3 and 4 of that section apply.

(3) The board of management shall in each year distribute ^{Distribution} the moneys received to the municipalities in the district that contributed to the cost of the new home or the addition or extension in the proportion that the contribution of each such municipality to the cost bore to the total of the contributions of all such municipalities to the cost. 1955, c. 30, s. 22.

23.—(1) When the Minister grants his approval under section 9 to the acquisition, erection or alteration of a building ^{Provincial subsidy on capital expenditures} for use as a home or joint home, or to an alteration to or in any building or to the grounds of the home or joint home or when the home or joint home incurs such other capital expenditures as are prescribed in the regulations, the Lieutenant Governor in Council may direct payment out of moneys appropriated therefor by the Legislature of an amount to be computed in accordance with the regulations not exceeding 50 per cent of the cost thereof to the treasurer of the home or joint home. 1958, c. 38, s. 4 (1), *part*; 1960, c. 46, s. 2.

(2) Payments under subsection 1 in respect of a new building or the alteration of a building by an addition or extension may be made either when the building or alteration is completed and ready for occupancy or from time to time during the construction thereof in the manner prescribed by the regulations. ^{When payable} 1958, c. 38, s. 4 (1), *part*.

What to be
included and
excluded
in com-
puting cost

(3) In computing the amount of the cost of the new building, or the alteration of a building by an addition or extension for the purposes of subsection 1, the cost of equipment and furnishings may be included, but the cost of any land in excess of fifteen acres and the cost of any barns or other similar out-buildings shall not be included. 1955, c. 30, s. 23 (3); 1958, c. 38, s. 4 (2).

Provincial
subsidy on
operating
costs

24. There shall be paid monthly out of the moneys appropriated therefor by the Legislature to the treasurer of every home and joint home an amount equal to the percentage prescribed in the regulations of any operating or maintenance cost of the home or joint home computed in the manner prescribed in the regulations. 1958, c. 38, s. 5, *part*.

Provincial
subsidy for
residents of
unorganized
territory

25. There shall be paid monthly out of the moneys appropriated therefor by the Legislature to the treasurer of every home and joint home an amount per day computed in the manner prescribed in the regulations as the cost of maintenance for each person in the home or joint home whose residence before admission to the home or joint home was in territory without municipal organization. 1958, c. 38, s. 5, *part*.

Regulations

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) governing the qualifications of superintendents and members of staffs of homes and joint homes and prescribing their powers and duties;
- (b) prescribing rules governing homes and joint homes, the residents therein and the staffs thereof;
- (c) prescribing the records that shall be kept under this Act and the returns that shall be made to the Minister;
- (d) designating the medical services that shall be provided for residents of homes and joint homes;
- (e) prescribing the financial circumstances of residents of homes or joint homes for the purposes of subsection 1 of section 18;
- (f) prescribing the percentage of any operating or maintenance cost of homes and joint homes that will be paid by the Province under section 24;
- (g) prescribing the manner of computing the operating and maintenance costs of homes and joint homes for the purposes of section 24;

- (h) prescribing the manner of computing the proportion of the cost of construction of homes in territorial districts that shall be allocated to the unorganized parts of the districts;
- (i) prescribing capital expenditures and the manner of computing the amount of grants for the purposes of subsection 1 of section 23 and the method, time and manner of payment under subsection 2 of section 23;
- (j) providing for the admission to homes and joint homes of residents of unorganized territory and prescribing the manner of computing the cost of maintenance of such persons in such homes;
- (k) prescribing the conditions that shall be maintained in private residences in which persons may be placed for special-home care;
- (l) providing for the inspection of private residences in which persons may be placed for special-home care;
- (m) prescribing the percentage of any cost of maintenance of persons placed in special-home care to be paid by the Province and the method, time and manner of payment;
- (n) prescribing the manner of computing the cost of maintenance of persons placed in special-home care for the purposes of section 15;
- (o) prescribing forms and providing for their use;
- (p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1955, c. 30, s. 26; 1958, c. 38, s. 6 (1-3); 1960, c. 46, s. 3.

(2) The Lieutenant Governor in Council may divide any territorial district into two parts for the purposes of this Act, in which event each of such parts shall be deemed to constitute a territorial district for the purposes of this Act. 1958, c. 38, s. 6 (4).

Division of
territorial
districts

CHAPTER 175

The Horticultural Societies Act**1. In this Act,**Interpre-
tation

- (a) "board" means a board of directors elected under this Act;
- (b) "Department" means the Department of Agriculture;
- (c) "Minister" means the Minister of Agriculture;
- (d) "society" means a horticultural society organized under this Act or under any former Act having a similar purpose;
- (e) "Superintendent" means the Superintendent of Horticultural Societies. R.S.O. 1950, c. 169, s. 1.

2. The Minister may decide all matters of doubt or dispute arising in the operation or construction of this Act and his decision is final. R.S.O. 1950, c. 169, s. 2.

Minister
to decide
matters of
dispute

3.—(1) A society may be organized in any city, town, township or village, or in a police village having a population of not less than 200, or in any two of them that adjoin each other.

Where
societies
may be
organized

(2) In a city having a population of not less than 100,000 there may be two societies and for each additional 100,000 of population there may be an additional society. R.S.O. 1950, c. 169, s. 3.

Additional
societies**4. The mode of organization of a society shall be as follows:**Mode of
organiza-
tion

1. An agreement in the form prescribed by the Minister shall be signed by the persons who desire to organize a society and who are resident in the municipality or municipalities in which the society is to be organized.

Agreement

2. In the case of a city having a population of not less than 30,000, the number of persons signing the agreement shall be at least 125; in the case of a city having a population of less than 30,000, the number shall be at least 100; in the case of a town having a population of not less than 2,000, the number

Signatories
to agree-
ment

shall be at least 60; and in the case of a town having a population of less than 2,000 and a township, village or police village, the number shall be at least 25; but, for the purposes of this paragraph, where a society is to be organized in two adjoining municipalities, the society shall be deemed to be in the larger of such municipalities.

Fee payable
by signa-
tures

3. Every person who signs the agreement shall pay to the person having charge thereof the sum of \$1 and all such sums become the property of the society upon its organization, and where no society is organized the sums shall be repaid to the persons entitled thereto.

Organiza-
tion
meeting,
call:

4. Within two months after the date of the first signature to the agreement, the agreement shall be transmitted to the Superintendent who may, with the approval of the Minister, authorize any person to call a meeting for the organization of a society.

when to be
held

5. The organization meeting shall be held during the month of January or at such other time as the Superintendent authorizes, upon at least one week's notice published in a newspaper having a general circulation in the municipality.

quorum

6. At the organization meeting, and at every regular meeting of a society, ten members constitute a quorum.

President,
vice-
presidents,
auditors,
directors

7. At the organization meeting, there shall be elected a president, a first vice-president, a second vice-president and two auditors who shall hold office until the next annual meeting, and ten directors, five of whom shall hold office until the next annual meeting and five of whom shall hold office until the next following annual meeting, but, where any officer or director so elected has not paid the sum of \$1 as provided by paragraph 3, he shall pay such sum to the treasurer or secretary-treasurer within two weeks of the election.

Board,
composition

8. The board shall be composed of the president, first vice-president, second vice-president and the ten directors.

Secretary
and
treasurer

9. The board, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee that is appointed by the board.

Bond to be
furnished by
treasurer

10. The board may require the treasurer or secretary-treasurer to furnish such bond as is deemed necessary to ensure the faithful performance of his duties and the proper administration of all funds belonging to the society coming into his hands and, where no such bond is required by the board, every member of the board is personally liable for all funds belong-

ing to the society that come into the hands of the treasurer.

11. A report of the organization meeting, certified by the president, the secretary and the person calling the meeting, containing a statement of the number of members and a list of the officers and directors elected or appointed, together with their addresses, shall be sent to the Superintendent by the secretary within one week after the holding of the meeting. R.S.O. 1950, c. 169, s. 4.

Report of
organiza-
tion
meeting

5. Upon the receipt of such report, the Superintendent, with the approval of the Minister, may declare the society to be a society within the meaning of this Act. R.S.O. 1950, c. 169, s. 5.

Declaration
of society

6. Subject to the approval of the Minister, any two or more societies may combine to form one society on such terms and conditions as the Minister prescribes. R.S.O. 1950, c. 169, s. 6.

Combina-
tion of
societies

7. Upon the petition of not less than twenty-five members of a society, the Minister may dissolve the society or may constitute two or more societies upon such terms and conditions as he deems proper. R.S.O. 1950, c. 169, s. 7.

Dissolution
of society
upon
petition

8.—(1) Every person of the full age of sixteen years or over is entitled to membership in a society.

Persons
entitled to
membership

(2) Subject to the by-laws and regulations of a society, a partnership or incorporated company may become a member thereof upon payment of the prescribed fee, but in every such case the partnership or company shall delegate one person to exercise the privileges of membership in the society.

Partnership
or company
may be
member

(3) In every society there shall be an annual membership fee of not less than 50 cents.

Membership
fee

(4) The fiscal year of every society is the calendar year unless the Minister otherwise authorizes.

Fiscal
year

(5) Every member in good standing of a society is entitled to vote on all questions coming before a regular or special meeting of the society. R.S.O. 1950, c. 169, s. 8.

Voting of
members

9.—(1) The object of a society is to encourage interest and improvement in horticulture,

Object

(a) by holding meetings for instruction and discussion on subjects connected with the theory and practice of horticulture;

- (b) by encouraging the improvement of home and public grounds by the planting of trees, shrubs and flowers, and by otherwise promoting out-door art and public beautification;
- (c) by interesting juveniles and others in the study of horticulture by the holding of contests and competitions and by such other means as are considered proper;
- (d) by holding exhibitions and awarding premiums for the production of vegetables, plants, flowers, fruits, trees and shrubs;
- (e) by the distribution of seeds, plants, bulbs, flowers, trees and shrubs in ways calculated to create an interest in horticulture; and
- (f) by promoting the circulation of horticultural periodicals.

Expenditure
of annual
receipts

(2) A society shall not expend more than one-half of its total annual receipts, other than grants or donations made for specific purposes, upon any one of the projects enumerated in subsection 1, except for the purposes of planting trees, shrubs and plants on public grounds and the promotion of out-door art and public beautification.

Expenditure
of funds

(3) None of the funds of a society shall be expended for any purpose not indicated in subsection 1, and a society that contravenes any of the provisions of this section is not entitled to the Government grant for the year in which the contravention occurs, or where the grant for such year has already been paid, for the next following year, subject however to any direction that the Minister makes. R.S.O. 1950, c. 169, s. 9.

Annual
meeting:

10.—(1) Every society shall hold a meeting annually during the month of January or such other month as the Superintendent approves at such time and place as the board determines.

notice

(2) At least one week's notice of every annual meeting shall be given by the publication of a notice of the meeting in a newspaper having a general circulation in the municipality or by mailing a notice of the meeting to each member of the society at the address furnished to the secretary. R.S.O. 1950, c. 169, s. 10.

Procedure

11. At an annual meeting the board shall present a report of the activities and accomplishments of the society during the preceding year and the financial statement for the preceding year certified by the auditors on the form prescribed

by the Minister, and the officers and other members of the board shall be elected or appointed in the manner provided by section 4, provided that five directors shall be elected at each annual meeting. R.S.O. 1950, c. 169, s. 11.

12.—(1) In the event of failure to hold the annual meeting in accordance with this Act or in the event of the number of members of a society on the 1st day of July in any year being less than the number required for organization, the society is not entitled to receive any further Government grant and shall be deemed to be dissolved, subject always to any direction of the Minister, and the persons comprising the board during the last year of the existence of the society shall be trustees of the assets of the society and shall deliver to the Superintendent a statement of its assets and liabilities. Dissolution

(2) The Superintendent may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and liquidate any of the assets for such purpose and may direct such members to dispose of any moneys or other assets then remaining in such manner as he determines. R.S.O. 1950, c. 169, s. 12. Payment of debts and disposal of surplus moneys

13.—(1) A statement of officers and members and a copy of the financial statement in the form prescribed by the Minister and certified by the president, secretary-treasurer, or secretary and treasurer, and auditors to be true copies shall be forwarded to the Minister within two weeks of the holding of the annual meeting. Statement to be sent to Minister

(2) The Minister may at any time require a society or any officer of a society to furnish such information regarding the society as he deems necessary or desirable. Minister may require information

(3) The Minister may require any financial or other statement or information required to be furnished to him to be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. R.S.O. 1950, c. 169, s. 13. Minister may require affidavit certifying

14. A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least three days before the time fixed for the meeting; but a meeting of the board may be held immediately following any annual, regular or special meeting of the society, without notice. R.S.O. 1950, c. 169, s. 14. Meetings of board

15.—(1) Subject to the by-laws and regulations of the society, the board has power to act for and on behalf of the society in all matters. Powers of board:

quorum

(2) Five of the members of the board constitute a quorum.

vacancies

(3) When a vacancy occurs on the board by reason of the death or resignation of any officer or director or otherwise, the remaining members of the board may appoint any member of the society to fill the vacancy. R.S.O. 1950, c. 169, s. 15.

Meetings

16. The board may determine what regular and special meetings of the society shall be held during each year. R.S.O. 1950, c. 169, s. 16.

By-laws and regulations

17. By-laws and regulations of a society may be made, adopted, amended or repealed at any annual or regular meeting of the society or at a special meeting of which at least one week's notice has been given in the manner provided for by subsection 2 of section 10. R.S.O. 1950, c. 169, s. 17.

Provincial grants

18. Every society that has complied with this Act and has furnished the statements and other information required by the Minister is entitled to receive a grant out of the moneys appropriated by the Legislature for such purpose if the membership of the society is not less than that required for organization purposes. R.S.O. 1950, c. 169, s. 18.

Division of grants

19.—(1) Such amount as is appropriated by the Legislature for the purposes of this Act is subject to division among the societies according to the following plan:

1. Every society shall, during the first year of its existence, receive a grant at the rate of 50 cents for every paid-up member as of the 1st day of July, but no such grant shall exceed \$75.
2. The balance of such amount is subject to division among the remaining societies as follows:
 - i. one-third among the societies in proportion to the total number of members of each society in the preceding year.
 - ii. two-thirds among the societies in proportion to the total amount expended by each society during the preceding year for horticultural purposes, in accordance with section 9.

Maximum grants

(2) Notwithstanding subsection 1, no society is entitled in any year to a grant in excess of $3\frac{1}{2}$ per cent of the amount appropriated for the purposes of this Act for such year nor is a society entitled in any year to a grant in excess of \$500. R.S.O. 1950, c. 169, s. 19.

20. The council of a city, town, village, county or township may grant money to any society organized wholly or partly within its limits. R.S.O. 1950, c. 169, s. 20. ^{Municipal grants}

21. The Minister may appoint a person to inspect the books and accounts of any society and may empower the person to summon witnesses and enforce the production of documents before him and to take evidence upon oath in regard to such inspection, and every officer of a society shall, when requested, submit the books and accounts thereof to such inspection. R.S.O. 1950, c. 169, s. 21. ^{Inspection of books and accounts}

22. Where the board has reason to believe that a member or other person exhibiting a product at an exhibition at which prizes are offered by the society has committed a fraud in respect of the product, the board may withhold payment or delivery of any prize money or other prize award to the person until the person proves to the satisfaction of the board that no fraud has in fact been committed. R.S.O. 1950, c. 169, s. 22. ^{Fraud in obtaining prizes}

CHAPTER 176

The Hospital Services Commission Act**1. In this Act,**Interpre-
tation

- (a) "Commission" means the Hospital Services Commission of Ontario;
- (b) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;
- (c) "regulations" means the regulations made under this Act. 1957, c. 46, s. 1.

COMMISSION

2. The Commission that was constituted on behalf of Her Majesty in right of Ontario as a corporation without share capital by *The Hospital Services Commission Act, 1956* is continued. 1957, c. 46, s. 2.

Commission
continued
1956, c. 31

3.—(1) The Commission shall be composed of not fewer than three and not more than seven persons as the Lieutenant Governor in Council from time to time determines.

Composition
of Commis-
sion

(2) The members of the Commission shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman and one of them may be designated as vice-chairman.

Appoint-
ment of
members

(3) The chairman, the vice-chairman, if any, and the other member or members, as the case may be, of the Commission shall receive such remuneration for their services as the Lieutenant Governor in Council determines. 1957, c. 46, s. 3.

Remunera-
tion

(4) In case of the absence or illness of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purpose shall act as and have the powers of the chairman. 1958, c. 39, s. 1.

Acting
chairman

Vacancies

4. The Lieutenant Governor in Council may fill any vacancy that occurs from time to time in the membership of the Commission. 1957, c. 46, s. 4.

Quorum

5. A majority of the members of the Commission constitutes a quorum. 1957, c. 46, s. 5.

Officers
and
employees

6.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

(a) establish job classifications and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications and salary ranges so approved; and

(b) pay supplementary benefits to or for the credit of an officer or employee in addition to the remuneration payable under clause a.

Terms of
employment

(2) The Commission may establish the terms and conditions of employment for its officers and employees and, if necessary, make any payments required by such terms and conditions.

Employees' super-
annuation
benefits
R.S.O. 1960,
c. 332

(3) *The Public Service Superannuation Act* applies to the permanent staff of the Commission, except the staff members provided for in subsection 4, as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act, and all contributions and credits of persons appointed to the permanent staff of the Commission accumulated under Part I of that Act are preserved and continued.

Employees
transferred
from O.H.A.

(4) The Commission may enter into agreements to establish and provide for any person transferred on or before the 1st day of January, 1959, to the staff of the Commission from the staff of the Ontario Hospital Association a pension and welfare plan providing for the continuation of benefits the same as or equivalent to those enjoyed by the Association's staff under the agreement for that purpose dated the 1st day of January, 1954, to which the Association is a party, and may pay the employer's share of the cost of such plan.

Vacation
and sick
leave
credits

(5) The Commission may,

(a) provide a system of cumulative vacation and sick leave credits for the regular attendance of its officers and employees, and such credits shall not be less than the credits provided under *The Public Service Act*; and

- (b) pay to an officer or employee having more than five years service who ceases to be a member of the staff of the Commission, or to his personal representative or, failing a personal representative, to such other person as the Commission determines, an amount for his accumulated vacation and sick leave credits computed in the manner prescribed under *The Public Service Act*.

R.S.O. 1960,
c. 331

(6) The Commission may credit each person who is transferred to the staff of the Commission with all vacation and sick leave credits accumulated for regular attendance standing to the credit of that person by virtue of any regulation under *The Public Service Act*, and provide for the payment for such credits in accordance with subsection 5.

Transfer
of credits

(7) All contributions and credits accumulated in the Public Service Retirement Fund under Part II of *The Public Service Superannuation Act* by any person who becomes a member of the temporary or permanent staff of the Commission shall be transferred to the credit of that person for superannuation purposes.

Retirement
fund
benefits
R.S.O. 1960,
c. 332

(8) The Commission may grant to an officer or an employee of the Commission leave of absence with or without pay for the purpose of taking a course of training or for any reason deemed sufficient by the Commission and, where the leave is with pay, the Commission may in its discretion charge such leave against the sick leave credits of the person.

Leave

(9) Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by *The Public Officers Act*. 1958, c. 39, s. 2.

Security
by
officers

R.S.O. 1960,
c. 326

7. It is the function of the Commission and it has power,

Function

- (a) to ensure the development throughout Ontario of a balanced and integrated system of hospitals and related health facilities;
- (b) to approve the establishment of new and additional hospital and related health facilities;
- (c) to determine the amount of and pay grants for hospital construction and maintenance;
- (d) to establish and operate, alone or in co-operation with one or more organizations, institutes and centres for the training of hospital and related personnel;
- (e) to conduct surveys and research programmes and to obtain statistics for its purposes;
- (f) to administer and enforce *The Public Hospitals Act* and the regulations thereunder, and *The Private Hospitals Act* and the regulations thereunder;

R.S.O. 1960,
cc. 322, 305

- (g) to perform such other functions and discharge such other duties as are assigned to it from time to time by the Lieutenant Governor in Council. 1957, c. 46, s. 7; 1958, c. 39, s. 3.

Divisions

8. The Commission may establish,

- (a) an administrative division;
- (b) a division of hospital planning;
- (c) a division of hospital consultant services;
- (d) a division of hospital accounting;
- (e) a division of hospital care insurance;
- (f) a division of research and statistics,

and such other divisions as appear from time to time to be appropriate. 1957, c. 46, s. 8.

Moneys

9. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 46, s. 9.

Audit

10. The books and records of the Commission shall be examined annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates. 1957, c. 46, s. 10.

Annual report

11.—(1) The Commission shall make annually a report to the Minister of the affairs of the Commission.

Idem

(2) A copy of the report shall be filed by the Minister with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1957, c. 46, s. 11.

Conflict

12. In the event of conflict between any provision of this Act and any provision of any other Act, the provision of this Act prevails. 1957, c. 46, s. 12.

HOSPITAL CARE INSURANCE PLAN

Ontario-
Canada
agreement
authorized

13. The Government of Ontario, represented by the Treasurer of Ontario, may enter into and amend from time to time an agreement with the Government of Canada under which Canada will contribute to the cost of the plan of hospital care insurance provided for in this Act in accordance with such terms and conditions as the agreement provides. 1957, c. 46, s. 13; 1958, c. 39, s. 4.

14.—(1) In addition to the functions enumerated elsewhere in this Act, it is the function of the Commission and it has ^{Establishment of plan} power,

- (a) to administer the plan of hospital care insurance established by the regulations;
- (b) to determine the amounts to be paid to hospitals and to pay hospitals for insured services provided to insured persons under the plan of hospital care insurance and to make retroactive adjustments with hospitals for underpayment or overpayment for insured services according to the cost as determined in accordance with this Act and the regulations;
- (c) to enter into agreements with one or more persons to act for and on behalf of the Commission in the operation of any part of the plan of hospital care insurance;
- (d) to receive and disburse all moneys pertaining to the plan of hospital care insurance;
- (e) to control charges made to all patients by hospitals in Ontario to which payments are made under the plan of hospital care insurance;
- (f) to enter into agreements with hospitals outside Ontario and with other governments and hospital care insurance authorities established by other governments for providing insured services to insured persons;
- (g) to prescribe forms necessary or desirable to carry out the intent and purpose of this Act;
- (h) to borrow money upon the security of its own obligations upon the consent of the Treasurer of Ontario;
- (i) to appoint inspectors with the duty and power to inspect and examine books, accounts and records of employers and collectors for the purpose of obtaining information related to the hospital insurance plan;
- (j) to appoint medical practitioners with the duty and power to examine and obtain information from the medical and other hospital records, reports and accounts of patients who are receiving or have received insured services;
- (k) to withhold payment for insured services for any person who does not, in the opinion of the Commission, medically require such services. 1957, c. 46, s. 14; 1958, c. 39, s. 5 (1, 2).

(2) *The Regulations Act* does not apply to anything done by the Commission under subsection 1. 1958, c. 39, s. 5 (3). ^{R.S.O. 1960. c. 349, not to apply}

Regulations

15.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

- (a) establishing a plan of hospital care insurance;
- (b) providing for compulsory participation in the plan of hospital care insurance by designated groups of persons ordinarily resident in Ontario;
- (c) defining words used in the Act for the purposes of the Act and the regulations;
- (d) approving hospitals for the purposes of the plan of hospital care insurance;
- (e) designating classes of insured persons and prescribing the conditions for participation of any class;
- (f) fixing municipal responsibility for a portion of the cost of insured services for recipients of public assistance, but the portion shall not exceed the rates established for municipal liability for indigents by *The Public Hospitals Act*; R.S.O. 1960, c. 322.
- (g) making such arrangements as are necessary to ensure that adequate standards are maintained in hospitals;
- (h) providing for the admission, discipline and discharge of patients or any class of patients in hospitals in Ontario to which hospitals payments are made under the plan of hospital care insurance;
- (i) prohibiting or restricting the making and renewing of contracts to provide a resident with or reimbursing or indemnifying a resident for the cost of insured services, and regulating the making and renewing of contracts of insurance and prepayment plans with residents to provide any benefits related directly or indirectly to hospitalization or to the length of time a person is in hospital;
- (j) prohibiting payment by insurers of the cost of any insured services and the provision of any benefit related directly or indirectly to hospitalization or to the length of time a person is in hospital;
- (k) regulating insurance contracts that provide hospital insurance benefits supplementary to those made available under this Act and the regulations;
- (l) subrogating the Commission to any right of recovery by an insured person in respect of any injury or disability and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled;

R.S.O. 1960,
c. 322

- (m) providing for payment to the Commission by an insurer of the amount of a claim in respect of the cost of insured services that would otherwise be payable to an insured person;
- (n) establishing The Hospital Services Commission Fund and providing for the operation of the Fund, for deposits into and withdrawals from the Fund and for the investing of any surplus moneys in the Fund that are not necessary for the current requirements of the Commission; and
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1957, c. 46, s. 15; 1958, c. 39, s. 6 (1, 2).

(2) A regulation may be limited in its application in time, place, persons or things and may be retroactive in its operation. 1958, c. 39, s. 6 (3). Application
of
regulations

16. The Commission is not liable for any act or omission of any hospital official, any person on the medical staff or nursing staff of a hospital, or any employee or agent of a hospital. 1958, c. 39, s. 7, *part*. Liability
limited

17.—(1) No person shall knowingly obtain or receive the benefit of insured services that he is not entitled to obtain or receive under this Act and the regulations. Offences

(2) No person shall knowingly aid or abet another person to obtain or receive insured services that such other person is not entitled to obtain or receive under this Act and the regulations. Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a term of not more than six months or to both. 1958, c. 39, s. 7, *part*. Idem

18. Every person who obstructs an inspector or a medical practitioner in the performance of his duties under this Act and the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$10,000 or to imprisonment for a term of not more than six months or to both. 1958, c. 39, s. 7, *part*. Offence

19.—(1) Every person who contravenes any provision of this Act or the regulations for which no penalty is specifically provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000. 1958, c. 39, s. 7, *part*; 1960, c. 47, s. 1 (1). General
penalty

Idem

(2) Where the offence is the failure by an employer to remit on behalf of himself and his employees the premiums required by the regulations, the penalty imposed under subsection 1 shall be increased by an amount equal to the amount of such premiums, and, upon payment of the penalty as so increased, the employer shall be deemed to have remitted such premiums. 1960, c. 47, s. 1 (2).

Disposition
of fines

20. The fines recovered for offences against this Act shall be paid over to the Commission. 1960, c. 47, s. 2, *part*.

Protection
from being
called as
witnesses

21.—(1) No member of the Commission and no employee thereof shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his duties.

Protection
from
personal
liability

(2) No member of the Commission and no employee thereof is personally liable for anything done by it or him under the authority of this Act, any other Act or any regulation. 1960, c. 47, s. 2, *part*.

Security
of records

22. The Commission shall not be required to make available for evidence in any civil suit any information concerning a patient obtained by the Commission from,

- (a) the records of a hospital, including a hospital under section 23; or
- (b) a statement made to inform the Commission about an incident that caused an insured person to require care and treatment in a hospital. 1960, c. 47, s. 2, *part*.

TUBERCULOSIS AND MENTAL ILLNESS

Interpre-
tationR.S.O. 1960,
co. 307, 315
236, 359

23.—(1) In this section, "hospital" means a sanitarium licensed under *The Private Sanitaria Act* that is approved by the Commission for the purposes of this section, a psychiatric hospital established under *The Psychiatric Hospitals Act*, an institution designated by the regulations under *The Mental Hospitals Act*, or a sanatorium established under *The Sanatoria for Consumptives Act*.

Insured
persons
entitled

(2) An insured person who is entitled to insured services under the plan of hospital care insurance and who is admitted to a hospital under this section is entitled to such services as are required for his maintenance, care, diagnosis and treatment in accordance with this Act and the regulations without being

required to pay or have paid on his behalf any additional premium or other charge beyond that necessary to entitle him to insured services under the plan of hospital care insurance.

(3) Notwithstanding subsection 2, an insured person in ^{Exceptions} respect of whom, but for this Act, the Government of Canada would have assumed the cost of the maintenance, care, diagnosis and treatment provided under this section is not entitled to receive insured services in a hospital as an insured person.

(4) The Commission shall keep the accounts, if any, of ^{Accounts} insured persons who receive insured services under this section separate from the accounts of patients who receive insured services under the plan of hospital care insurance mentioned in section 13. 1958, c. 39, s. 7, *part, amended*.

CHAPTER 177

**The Hospitals and Charitable Institutions
Inquiries Act**

1. Whenever the Lieutenant Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting a hospital, sanatorium, charitable institution or other organization that is granted aid out of moneys appropriated by the Legislature, he may, by commission, appoint one or more persons to conduct such inquiry, and every person so appointed for that purpose has all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. 1952, c. 38, s. 1, *amended*.

2. Sections 4 and 5 of *The Public Inquiries Act* apply *mutatis mutandis* to an inquiry authorized under this Act.

Power to
make
inquiry

Application
of
R.S.O. 1960,
c. 323

CHAPTER 178

The Hospitals Tax Act**1. In this Act,**Interpre-
tation

- (a) "admission" includes entry to a place of amusement or place of entertainment where any charge is made or fee is collected before or after entry;
- (b) "Comptroller" means the Comptroller of Revenue;
- (c) "entertainment by one or more paid performers", if facilities for dancing are not provided, means entertainment of any kind, except music produced by means of a musical instrument other than the human voice, and except entertainment produced by mechanical or electronic means;
- (d) "facilities for dancing" means a cleared dance floor when music for dancing is provided by any means;
- (e) "owner" means a person who operates a place of amusement or a place of entertainment, or both;
- (f) "place of amusement" means a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side-show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance is staged or held, and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise;
- (g) "place of entertainment" means a premises or place, whether enclosed or not,
 - (i) where facilities for dancing are provided with the service of liquor, beer or wine, or
 - (ii) where entertainment by one or more paid performers is provided with the service of food or the service of liquor, beer or wine,

but no premises or place shall be deemed to be a place of entertainment on any day until facilities for dancing are provided or entertainment by one or more

paid performers is provided and, thereafter, such premises or place is a place of entertainment until closed;

- (h) "price of admission" includes every charge made to or fee collected from a purchaser by an owner before or after admission to a place of amusement or place of entertainment and includes, when it is for admission to a place of entertainment, every cover charge and every charge for the service of food or the service or liquor, beer or wine;
- (i) "purchaser" means a person who purchases admission for himself to a place of amusement or place of entertainment, and includes a person for whom admission to a place of amusement or place of entertainment is purchased by any other person;
- (j) "regulations" means the regulations made under this Act;
- (k) "service of liquor, beer or wine" means the service of liquor, beer or wine to a purchaser in a place from which, in order to use facilities for dancing or to view entertainment by one or more paid performers, he is not required to pass through a doorway or through more than one doorway;
- (l) "service of food" means the service of food or beverages, other than liquor, beer or wine, to the purchaser at a table in a place from which, in order to view entertainment by one or more paid performers, he is not required to pass through a doorway or through more than one doorway;
- (m) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 170, s. 1; 1951, c. 36, s. 1; 1955, c. 31, s. 1.

Licences

2.—(1) No owner shall sell admission to a place of amusement or place of entertainment unless a licence therefor has been, upon his application, issued to him under this Act, and unless the licence is in force at the time of sale.

Expiry

(2) The license remains in force until the 31st day of March next following the date of issue. R.S.O. 1950, c. 170, s. 2 (1, 2).

Application

(3) The application for the licence shall be filed with the Comptroller. R.S.O. 1950, c. 170, s. 2 (3); 1955, c. 31, s. 2 (1).

**Granting of
licences**

(4) Subject to clause *a* of subsection 6, the licence shall be granted by the Comptroller upon payment of \$1 by the

that has a population of more than 10,000 as shown by its last revised assessment roll and that is designated by the regulations. 1960, c. 48, s. 1.

Tax on admission to places of entertainment

(3) A purchaser of admission to a place of entertainment shall pay to the Treasurer for the use of Her Majesty in right of Ontario,

(a) a tax at the rate of 10 per cent calculated upon the price of admission where such price is less than \$10; and

(b) a tax of \$1 where such price is \$10 or more,

and in the calculation under clause *a*, every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as 1 cent. 1955, c. 31, s. 3.

Collection

4.—(1) An owner shall, as the agent of the Treasurer, collect the tax imposed by this Act.

Arrangements for collection

(2) For the purpose of collecting the tax, the Treasurer may enter into such arrangement with each owner as he deems expedient and may provide for the payment of such remuneration to each owner as he deems proper. R.S.O. 1950, c. 170, s. 4.

Trust moneys

(3) An owner shall be deemed to hold all amounts collected under this Act in trust for Her Majesty.

Idem

(4) All amounts collected by an owner under this Act shall be kept separate and apart from his own moneys.

Surety bond

(5) The Treasurer may require any owner to furnish a surety bond on such terms and conditions and in such amount as the Treasurer deems appropriate. 1955, c. 31, s. 4.

Price of admission and tax

5.—(1) An owner shall inform every purchaser of admission of the price or prices of admission to his place of amusement or place of entertainment and of the amount of tax to be paid by the purchaser by placing in public view at the office of the owner where admission may be purchased a schedule showing such price or prices and the amount of such tax.

Receipt for tax

(2) For the purposes of subsection 3 of section 3, an owner shall collect the tax on each part of the price of admission and shall give each purchaser a receipt for each such part so that each purchaser may know when he has paid the maximum tax. R.S.O. 1950, c. 170, s. 5.

Sale invoices

6. An owner shall, upon the request of the purchaser, deliver to him a writing showing his name, his address, the number of his licence issued under this Act, the price of admis-

sion charged to the purchaser, and separately stated, the amount of the tax payable or paid by the purchaser. R.S.O. 1950, c. 170, s. 6.

7. No owner shall advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed under this Act will be assumed or absorbed by the owner or that it will not be considered as an element in the price to the purchaser or, if added, that it or any part thereof will be refunded. R.S.O. 1950, c. 170, s. 7. ^{Absorption of tax prohibited}

8.—(1) Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant Governor in Council may, upon application of the owner made to the Treasurer at least ten days before the tax would otherwise be payable, exempt the purchaser from payment and the owner from collection of the tax imposed under this Act. R.S.O. 1950, c. 170, s. 8 (1). ^{Special circumstances}

(2) Where it is shown to the satisfaction of the Treasurer that the tax calculated on the price of admission to a place of amusement or place of entertainment at or in which an entertainment has been held for the purpose of raising funds for religious, charitable or educational purposes, was collected and paid to the Treasurer in accordance with this Act, and where the owner files with the Comptroller a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Treasurer is satisfied that the organization is one the operations of which are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, the Treasurer may pay to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the owner as the price of admission to such place of amusement or place of entertainment. R.S.O. 1950, c. 170, s. 8 (2); 1955, c. 31, s. 5 (1). ^{Idem}

(3) Where application of the owner is made to the Treasurer at least ten days before the tax would otherwise be payable and the Treasurer is satisfied that the performers in a theatrical or musical performance in a place of amusement are residents of Canada performing under the management of a person resident in Canada and that the performance will not be presented with the showing of a motion picture or with a carnival, circus, side-show, menagerie, rodeo, exhibition, horse race, athletic contest or other performance, the Treasurer may, in ^{Canadian performances}

his absolute discretion, exempt the purchaser from the payment and the owner from the collection of the tax imposed under this Act. 1955, c. 31, s. 5 (2).

Returns

9.—(1) An owner shall, as agent of the Treasurer,

- (a) on or before the tenth day of each month, without notice or demand; or
- (b) on or before the day designated in the demand of the Comptroller served on the owner by hand or by registered mail,

deliver to the Comptroller such return as is required for the purpose of carrying out this Act. 1955, c. 31, s. 6.

Verification of returns

(2) The return shall be verified by the certificate of the owner, and, if the owner is not an individual, of his president or his resident manager or representative in Ontario, certifying that the financial statements for the preceding month, attached to the return, showing the receipts of the place of amusement or place of entertainment, the amount of the tax collectable under this Act and such other information as is required, are in agreement with the books of the owner and exhibit truly and correctly all the business of the owner at his place of amusement or place of entertainment during the preceding month. R.S.O. 1950, c. 170, s. 9 (2).

Fine for sale of admission unless licensed

10.—(1) Every owner who contravenes subsection 1 of section 2 is guilty of an offence and on summary conviction is liable to a fine for each sale of not less than \$10 and not more than \$1,000. R.S.O. 1950, c. 170, s. 10 (1), *amended*.

Fine for failure to pay tax

(2) Every purchaser who fails to pay the tax imposed under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$200. R.S.O. 1950, c. 170, s. 10 (2).

Fine for failure to collect tax

(3) Every owner who refuses or neglects to collect, account for or remit the amount of the tax in accordance with this Act or the regulations is guilty of an offence and on summary conviction is liable, in addition to the remittance of the tax, to a fine for each day during which such offence continues, of not less than \$10 and not more than \$1,000. R.S.O. 1950, c. 170, s. 10 (3), *amended*.

Fine for default in filing return

(4) Every owner who contravenes subsection 1 of section 9 is guilty of an offence and on summary conviction is liable to a fine of 5 per cent of the tax collectable by him, but in no case shall such fine be more than \$500. R.S.O. 1950, c. 170, s. 10 (4).

(5) Every owner who fails to complete the information required in the return to be delivered to the Comptroller under subsection 1 of section 9 is guilty of an offence and on summary conviction is liable to a fine of 1 per cent of the tax collectable by him, but in no case shall such fine be less than \$1 or more than \$20. R.S.O. 1950, c. 170, s. 10 (5); 1955, c. 31, s. 7 (1). Fine for failure to complete return

(6) Every employee of an owner who permits or authorizes or is a party or privy to the admission of a purchaser to a place of amusement or place of entertainment without collecting from the purchaser the tax imposed under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$500. R.S.O. 1950, c. 170, s. 10 (6). Fine for failure of employee to collect tax

(7) Every owner who contravenes subsection 4 of section 4 is guilty of an offence and on summary conviction is liable, in addition to the remittance of the tax collectable, to a fine equal to double the amount of the moneys collected and not kept separate and apart from his own moneys and in default of payment, to imprisonment for a term of three months. 1955, c. 31, s. 7 (2). Fine for failure to keep moneys apart

(8) In addition to the penalties provided by this Act, the Treasurer may apply to a judge of the Supreme Court for an injunction against any owner who sells admission to his place of amusement or place of entertainment without having a subsisting licence under this Act ordering him to cease selling such admission and to close his place of amusement or place of entertainment until a licence is granted and all costs are paid. R.S.O. 1950, c. 170, s. 10 (7). Injunction

11. The treasurer may enlarge the time for making any return before or after the time for making it. R.S.O. 1950, c. 170, s. 11. Time for making return

12.—(1) An owner shall remit with the return required by subsection 1 of section 9 the amount of the tax collectable by him as shown therein. R.S.O. 1950, c. 170, s. 12 (1); 1955, c. 31, s. 8. Remittance of tax

(2) When an owner remits less than the amount of the tax collectable as shown by the return, he shall pay interest at the rate of 7 per cent per annum upon the deficiency calculated from the date of default until the date of remission to the Treasurer. R.S.O. 1950, c. 170, s. 12 (2). Deficiency in amount remitted

13.—(1) If the Comptroller, in order for him to make an accounting of the tax collectable by the owner under this Act or for any other purpose, desires any information or addi- Demand for additional information

tional information, or a return from an owner who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the owner or from the president, manager, secretary, or any director, agent or representative thereof, such information, additional information or return, and the owner, president, manager, secretary, or any director, agent or representative upon whom the demand is made shall deliver to the Comptroller the information, additional information or return within the time specified in the registered letter. 1955, c. 31, s. 9 (1).

Production
of letters,
accounts,
etc.

(2) The Comptroller may, by registered letter, require the production under oath or otherwise, by any owner or the president, manager, secretary, or any director, agent or representative of such owner, or by any person, partnership, syndicate, trust or company holding or paying or liable to pay any portion of the income of such owner, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents. R.S.O. 1950, c. 170, s. 13 (2); 1955, c. 31, s. 9 (2).

Books of
account to
be kept

(3) If an owner fails or refuses to keep adequate books or accounts for the purpose of ascertaining the amount of the tax collectable by him under this Act, the Comptroller may require the owner to keep such records and accounts as he prescribes. R.S.O. 1950, c. 170, s. 13 (3); 1955, c. 31, s. 9 (2).

Penalty

(4) For a default in complying with any requirement of subsections 1 to 3, the owner or the persons, or both, in default are jointly and severally liable to a penalty of \$25 for each day during which the default continues. R.S.O. 1950, c. 170, s. 13 (4).

Compliance
of Treasurer
or Comptroller
etc., to be
proved by
affidavit

(5) For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Treasurer or of the Comptroller with this section, as well as the failure of any owner or person to comply with the requirements of this section, are sufficiently proven in any court by affidavit of the Treasurer or of any officer of the Treasury Department. R.S.O. 1950, c. 170, s. 13 (5); 1955, c. 31, s. 9 (2).

Inquiry as
to amount
of tax col-
lectable

(6) Any officer authorized by the Treasurer may make such inquiry as he deems necessary to ascertain the amount of any tax collectable by an owner under this Act, and for the purposes of such inquiry, such officer has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 170, s. 13 (6).

R.S.O. 1960,
c. 323

Treasurer or
Comptroller
not bound
by return

(7) No return or information supplied by or on behalf of any owner is binding upon the Treasurer or the Comptroller,

and notwithstanding any such return or information, or in the absence of any return or information, the Comptroller may determine the amount of the tax collectable by any owner. R.S.O. 1950, c. 170, s. 13 (7); 1955, c. 31, s. 9 (2).

(8) After examination of the return of the owner, the Comptroller shall send a notice of accounting to the owner verifying or altering the amount of tax shown to be collectable by the owner in his return, and any additional tax found to be collectable over the amount shown in the return shall be remitted within one month from the date of mailing of the notice of accounting, and subject to section 12, such additional tax shall bear interest at the rate of 4 per cent per annum calculated from the last date prescribed for making the return to the date of remission to the Treasurer. R.S.O. 1950, c. 170, s. 13 (8); 1955, c. 31, s. 9 (2). Notice of accounting

(9) If an owner fails to remit the additional tax and interest within one month after the date of the mailing of the notice of accounting, the owner shall pay, in addition to the interest provided by subsection 8, interest at the rate of 3 per cent per annum upon the additional tax from the expiry of the period of one month after the date of the mailing of the notice of accounting to the date of remission to the Treasurer. R.S.O. 1950, c. 170, s. 13 (9). Penalty for non-remittance of additional taxes

14.—(1) The Treasurer may refund before or after the issue of the notice of accounting any amount that the owner has remitted in excess of the taxes collectable or of the interest or penalties payable by him, if application in writing is made therefor by the owner within six months of the date of remission of the tax or the date on which the notice of accounting was issued. Refunds of over-payments

(2) Any refund under this section may be paid with interest at the rate of 3 per cent per annum calculated upon the amount by which the tax remitted exceeds the amount of tax collectable as determined in the notice of accounting, but in no case shall interest be paid where the refund of tax is less than \$50. R.S.O. 1950, c. 170, s. 14. Idem

15. Notwithstanding any prior accounting or where no accounting has been made, the owner continues to be liable for any tax that is collectable and that has not been remitted by him under this Act. R.S.O. 1950, c. 170, s. 15. Continuance of liability

16. Upon default of remission by an owner of any tax collectable by him or any penalty payable by him under this Act, Recovery of tax or penalty

- (a) the Treasurer may bring an action for recovery thereof in any court in which a debt or money demand

of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury; or

- (b) the Treasurer may issue a warrant and direct it to the sheriff of a county or district in which any property of the owner is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the owner, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court; or
- (c) the Treasurer or any officer authorized by him may enter upon the premises of the owner or any other place in Ontario where the books or records of the owner or any part of them are kept and make such investigation and examination as he deems necessary, and may seize any of the books and records and may, by notice in writing, require any person who is indebted to the owner to pay the debt to the Treasurer. R.S.O. 1950, c. 170, s. 16.

Manner of
serving
notice

17.—(1) A notice under clause *c* of section 16 may be served personally or by registered mail addressed to such person at the address indicated in the books or records of the owner, and the receipt of payment of the amount of the indebtedness by the Treasurer constitutes a good and sufficient discharge of the liability of such person to the owner to the extent of the amount indicated in the receipt.

Liability
of debtor

(2) A person discharging any liability to an owner owing taxes collectable by him or penalties payable by him, or both, under this Act after the service of the notice referred to in subsection 1 is personally liable to the Treasurer to the extent of the amount of the liability discharged between the person and the owner or to the extent of the amount of taxes collectable by the owner, or interest and penalties payable by him, or both, owing under this Act, whichever is the lesser amount, and the Treasurer has the same remedies for the recovery of such amount from such person as he has for the recovery from the owner of a tax collectable or penalty payable by him under this Act. R.S.O. 1950, c. 170, s. 17.

Priority
of tax

18. Every tax collectable and every penalty payable by an owner under this Act is a first lien and charge upon his property in Ontario. R.S.O. 1950, c. 170, s. 18.

19. Declarations or affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor. R.S.O. 1950, c. 170, s. 19. Declarations
or
affidavits

20.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. Secrecy

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 170, s.20. Offence

21. The use of any remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1950, c. 170, s. 21. Remedies
for recovery
of tax and
penalties

22. An information with respect to a contravention of this Act or the regulations may be laid or made within three years from the time when the matter of the information arose. R.S.O. 1950, c. 170, s. 22. Information
or complaint
within 3
years

23. The fines imposed for offences under this Act are payable to the Treasurer. R.S.O. 1950, c. 170, s. 23, *amended*. Disposition
of fines

24. A person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and no more than \$500. R.S.O. 1950, c. 170, s. 24. General
penalty

25. The Lieutenant Governor in Council may make regulations, Regulations

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;
- (b) providing for the collection of the tax imposed under this Act by the issuance of tickets wherever it is deemed advisable;

- (c) providing for the exemption of the purchaser from the payment and the owner from the collection of the tax that would otherwise be payable and collectable under this Act where the Treasurer, in his absolute discretion, determines that the entertainment given, amusement provided or game played is for religious, charitable or educational purposes;
 - (d) designating municipalities for the purposes of subsection 2 of section 3;
 - (e) respecting any matter necessary or advisable to carry out effectively the purpose of this Act. R.S.O. 1950, c. 170, s. 25; 1960, c. 48, s. 2.
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CHAPTER 179

The Hotel Fire Safety Act

1. In this Act,

Interpre-
tation

- (a) "fire door" means a hollow-metal, metal-clad, sheet-metal, steel or two-ply tin-clad door that is automatic or self-closing;
- (b) "Fire Marshal" means the Fire Marshal of Ontario;
- (c) "fire-resistive construction" means construction in which,
 - (i) the exterior walls are wholly of brick, stone, concrete, hollow block, solid block or the equivalent,
 - (ii) the interior walls and partitions are made of incombustible materials,
 - (iii) the floors and their supports are made of incombustible materials other than the floor covering, which may be wood, and
 - (iv) the roofs are made of incombustible materials;
- (d) "fire wall" means a partition wall of fire-resistive construction extending from the ground to a point three feet above the roof and in which all openings are protected by fire doors;
- (e) "grade" means the average level of the ground next to the building;
- (f) "hotel" means an hotel, tavern, inn or public house in one building or in two or more connected or adjacent buildings used mainly for the purpose of catering to the needs of the travelling public by supplying food and furnishing sleeping accommodation of not less than ten bedrooms, and includes all premises licensed under *The Liquor Licence Act*, but <sup>R.S.O. 1960,
c. 218</sup> does not include premises commonly known as boarding houses and apartment houses;
- (g) "incombustible", as applied to a material or combination of materials, means steel, iron, brick, tile, concrete, slate, asbestos, wired glass, cement or gypsum

plaster or other material that will not fuse, burn or disintegrate when exposed to a temperature of 1,000 degrees Fahrenheit for a period of one hour;

- (h) "inspector" means an inspector appointed under this Act;
- (i) "panic bolt" means a bolt or lock that can be opened at all times from the inside by downward pressure on a bar or lever;
- (j) "regulations" means the regulations made under this Act;
- (k) "self-closing", as applied to a door, window or other protection for an opening, means that such door, window or other protection is normally closed and will immediately return to the closed position when it is opened and released;
- (l) "smoke-proof" means constructed so as to prevent the rapid passage of smoke and flames;
- (m) "storey" means that part of a building between the top of a floor and the top of the next floor above it, or if there is no floor above it, that part between the top of a floor and the ceiling above it, and the storey closest to grade having its ceiling more than six feet above grade shall be deemed to be the first storey. R.S.O. 1950, c. 171, s. 1.

What hotels
to be fire-
resistive

2.—(1) An hotel more than two storeys in height that is constructed or remodelled after the 15th day of June, 1948, an addition more than two storeys in height thereafter made to an hotel, and a building more than two storeys in height thereafter converted for use as an hotel, shall be of fire-resistive construction.

Require-
ments for
a fire wall

(2) Where an addition is made after the 15th day of June, 1948, to an hotel and either the addition or the hotel is not of fire-resistive construction, there shall be a fire wall between the addition and the hotel. R.S.O. 1950, c. 171, s. 2.

Minimum
number and
location of
stairways

3.—(1) There shall be not less than two stairway systems in or in connection with an hotel, located as far apart as possible and so as to provide not less than two independent means of egress for the occupants on each floor.

Stairways in
certain
hotels

(2) Every stairway in or in connection with an hotel that existed on the 15th day of June, 1948, and that is more than two storeys in height shall be fully enclosed and smoke-proof, except that an exterior iron stairway with balconies at each floor or a metal tubular or spiral fire-escape may, with the

written permission of an inspector, be used in lieu of a fully enclosed and smoke-proof stairway.

(3) Every stairway in or in connection with,

Stairways
in certain
hotels

- (a) an hotel more than two storeys in height constructed or remodelled after the 15th day of June, 1948; or
- (b) an addition more than two storeys in height made to an hotel after the 15th day of June, 1948; or
- (c) a building more than two storeys in height converted for use as an hotel after the 15th day of June, 1948,

shall be fully enclosed, smoke-proof and of fire-resistive construction.

(4) Notwithstanding subsections 2 and 3, a stairway extending only to the second or mezzanine storey in an hotel of fire-resistive construction may be an open stairway.

Exception

(5) Every stairway from any part of an hotel, other than from a place of public assembly, shall have a clear width of not less than twenty-two inches, and each step shall have not less than a ten-inch tread and not more than an eight-inch rise except that, where structural difficulties exist, the inspector may give written permission for steps having not less than an eight-inch tread.

Minimum
width of
stairways

(6) Every stairway from a part of an hotel used as a place of public assembly shall have a clear width of not less than forty-four inches, and each step shall have at least a ten-inch tread and not more than an eight-inch rise.

Minimum
width of
stairways
from place
of assembly

(7) Where in an hotel more than two storeys in height any stairway is located so as to require the users thereof to pass through a lobby or other place of public assembly in order to reach the outside of the building, an inspector may make an order requiring the lobby or other place of public assembly to be equipped with an automatic sprinkler system. R.S.O. 1950, c. 171, s. 3.

Where stair-
way does
not give
direct
egress

4.—(1) No exterior stairway of,

Exterior
stairways
in certain
hotels:

- (a) an hotel more than two storeys in height constructed or remodelled after the 15th day of June, 1948; or
- (b) an addition more than two storeys in height made to an hotel after the 15th day of June, 1948; or
- (c) a building more than two storeys in height constructed for use as an hotel after the 15th day of June, 1948,

shall extend more than five storeys above grade.

to extend
to ground

(2) Every exterior stairway of an hotel shall extend to the ground, except that an inspector may give written permission for the bottom flight of such stairway to be counter-balanced. R.S.O. 1950, c. 171, s. 4.

Windows
and doors
beneath
exterior
stairways

5.—(1) Every window, except a first-storey display window, in an hotel beneath any part of an exterior stairway or opening onto or within ten feet of an exterior stairway shall be provided with wired glass and every door similarly located shall be metal-clad.

No other
wall
openings

(2) There shall be no wall opening, other than a door or window, beneath or within ten feet of an exterior stairway of an hotel.

Doors and
windows
opening to
stairways

(3) Every door and window opening to a stairway in or in connection with an hotel shall be not less than thirty inches in width and shall be hinged to open outwards with the line of exit travel and equipped with panic bolts only. R.S.O. 1950, c. 171, s. 5.

Balconies
and landings

6. The width of every balcony and landing in connection with a stairway in or in connection with an hotel shall be not less than the width of the door leading to it and shall have an area of not less than twelve square feet. R.S.O. 1950, c. 171, s. 6.

Railings

7. Every exterior stairway shall have an iron railing not less than thirty-two inches in height, measured perpendicularly from the nosing of the step, and every balcony and landing in connection with an exterior stairway of an hotel shall have an iron railing not less than three feet in height on all sides. R.S.O. 1950, c. 171, s. 7.

Passageways

8. Every passageway in an hotel leading to an exit door or stairway shall be not less than three feet in width and the walls and ceiling thereof shall be surfaced with plaster, plaster board or other incombustible material unless it is protected with an automatic sprinkler system. R.S.O. 1950, c. 171, s. 8.

Approaches
to stair-
ways

9. The approaches to every stairway in an hotel shall be unobstructed and shall not be through a room used as a bedroom or bathroom or for any purpose that may obstruct free passage, and no such approach shall be veiled from open view by any ornamentation, curtain or other thing. R.S.O. 1950, c. 171, s. 9.

Rotating
doors

10. Rotating doors may be installed in hotels at exterior entranceways only and shall be collapsible and flanked within

fifteen feet by one or more doors that open outwards and that have a total width of not less than forty-four inches. R.S.O. 1950, c. 171, s. 10.

11.—(1) Every exit sign in an hotel shall have the word "EXIT" displayed in block letters not less than six inches in height and coloured white on a red background or coloured red on a contrasting background, except that luminous signs of equivalent visibility may be used in lieu thereof. Exit signs

(2) Where electricity is available, every exit sign in an hotel shall be illuminated during the night by an electric lamp supplied from a circuit separate from the domestic electric system. Electric exit signs

(3) An hotel shall have an exit sign placed above or beside every exit door and every exit window so as to be clearly visible. R.S.O. 1950, c. 171, s. 11. Location of exit signs

12. An hotel shall display signs in such manner and in such locations as an inspector orders indicating the directions of travel to reach the exits. R.S.O. 1950, c. 171, s. 12. Directional signs

13. An hotel shall display in each bedroom a floor plan showing the location of the exits and indicating the directions of travel to reach them and also a notice giving the fire safety rules of the hotel. R.S.O. 1950, c. 171, s. 13. Notices to be displayed in each bedroom

14. Every exterior stairway, balcony, landing, exit door and exit window of an hotel shall be kept free at all times from obstructions, including ice and snow. R.S.O. 1950, c. 171, s. 14. Exits to be kept clear

15. Every elevator shaft in an hotel shall be fully enclosed with incombustible materials and the top thereof shall be equipped with heat-actuated vents, and every elevator door shall be of metal and wired glass without openings. R.S.O. 1950, c. 171, s. 15. Elevator shafts and doors

16. Every boiler or furnace room in an hotel shall be of fire-resistive construction and shall be equipped with fire doors. R.S.O. 1950, c. 171, s. 16. Boiler and furnace rooms

17. An hotel not completely equipped with an automatic sprinkler system or a heat-actuated fire detection system and containing twenty or more bedrooms above the first storey shall have a watchman on duty from 10 o'clock each night until 6 o'clock the following morning, and the watchman shall be equipped with a watchman's clock and he shall make a round of the hotel at least once every hour during his duty period. R.S.O. 1950, c. 171, s. 17. Where watchman to be employed

Where fire
fighters to
be on duty

18. An hotel containing fifty or more bedrooms above the first storey shall have at least one adult male employee trained in fire fighting to the standard prescribed by the regulations on duty at all times within the hotel, except that this section does not apply where the hotel is in a municipality that has a fire department and where the hotel is completely equipped with an automatic sprinkler system or a heat-actuated fire detection system connected electrically with an alarm in the fire department or with a central signal supervisory service. R.S.O. 1950, c. 171, s. 18.

Fire alarms

19. An hotel shall have a fire-alarm system capable of being heard throughout the hotel and of being operated from each floor and from the hotel office. R.S.O. 1950, c. 171, s. 19.

Smoke-proof
barriers

20.—(1) An hotel not of fire-resistive construction shall have smoke-proof barriers in such locations as an inspector orders.

Power to
require
sprinkler
systems

(2) An inspector may make an order requiring any hotel not of fire-resistive construction that is four or more storeys in height and is in a city or that is three or more storeys in height and is not in a city to have an automatic sprinkler system or a heat-actuated fire detection system. R.S.O. 1950, c. 171, s. 20.

Duty to
call fire
department

21. When a fire is discovered in an hotel in a municipality that has a fire department, the manager or other person in charge shall immediately call the fire department. R.S.O. 1950, c. 171, s. 21.

Special
powers of
inspectors

22. Where an inspector finds that a condition exists in an hotel that makes the hotel specially liable to fire, he may make an order directing the hotelkeeper to remedy the condition. R.S.O. 1950, c. 171, s. 22.

Orders of
inspector

23.—(1) Where an inspector makes an order under this Act, he shall cause a copy of the order to be delivered to the hotelkeeper by personal service or by registered mail.

Right of
appeal

(2) If the hotelkeeper feels aggrieved by the order, he may appeal within ten days from the service of the order to the Fire Marshal who shall examine the order and affirm, modify or revoke it and cause a copy of his decision to be delivered to the hotelkeeper by personal service or by registered mail.

Right of
application
to court

(3) If the hotelkeeper is dissatisfied with the decision of the Fire Marshal, he may, within ten days from the service of the decision, apply by way of originating notice according to the practice of the court, to the judge of the county or

district court of the county or district in which the hotel is situate, for an order modifying or revoking the order, and the judge, upon such application, may affirm, modify or revoke the order, and his decision is final.

(4) If an application to the county or district judge is not prosecuted by the hotelkeeper within thirty days from the filing of the originating notice, the judge may dismiss the application at the request of the Fire Marshal. R.S.O. 1950, c. 171, s. 23. Failure to prosecute application

24.—(1) Every hotelkeeper who operates an hotel that does not conform with this Act and the regulations or who fails to comply with any order made by an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500, and, in addition, the magistrate may order the hotel to be closed until it is made to conform with this Act and the regulations or with the order of the inspector. Offence

(2) The conviction under this Act of an hotelkeeper does not operate as a bar to further prosecution under this Act for the continued failure on his part to comply with this Act and the regulations or the order of an inspector but such continuance constitutes a new and separate offence. R.S.O. 1950, c. 171, s. 24. Conviction not bar to further charge

25. The Lieutenant Governor in Council may appoint one or more inspectors to enforce this Act and the regulations. R.S.O. 1950, c. 171, s. 25. Inspectors, appointment

26. The Lieutenant Governor in Council may make regulations, Regulations

- (a) requiring the submission of drawings and specifications to the Fire Marshal for review and approval prior to the construction, alteration or remodelling of and additions to hotels;
- (b) prescribing the mode of, and the materials to be used in, the construction, alteration or remodelling of and additions to hotels or any designated class thereof;
- (c) prescribing the mode of erection or installation of stairways, balconies, fire walls, doors, windows, exits and fire-prevention, fire-protection and fire-alarm equipment in or outside hotels or any designated class thereof, and the materials to be used therein;
- (d) prescribing the mode of the construction of heating, ventilating and air-conditioning systems in hotels or any designated class thereof;

- (e) regulating the location, arrangement and maintenance of places of public assembly in hotels or any designated class thereof, and prescribing the mode of construction of such places;
- (f) controlling or prohibiting exhibits and displays in hotels or any designated class thereof;
- (g) controlling or prohibiting the use of flammable decorations, curtains and drapes in hotels or any designated class thereof;
- (h) prescribing standards of housekeeping for hotels;
- (i) prescribing a standard of training in fire-fighting for employees of hotels;
- (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
R.S.O. 1950, c. 171, s. 26.

Municipal
by-laws not
affected

27. Nothing in this Act or the regulations affects any by-law relating to the matters mentioned in this Act, or the regulations and lawfully passed by a municipal council, or the authority of a municipal council to pass any such by-law, in so far as such by-law imposes additional or more stringent requirements than those contained in this Act or the regulations.
R.S.O. 1950, c. 171, s. 27.

CHAPTER 180

The Hotel Registration of Guests Act

1. In this Act, "hotel" means a separate building or two or more connected buildings used mainly for the purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not less than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as "boarding houses" or of furnishing living quarters for families and having a dining-room or restaurant commonly known as "apartment houses" or "private hotels". R.S.O. 1950, c. 172, s. 1.

Interpretation

2. A register shall be kept in every hotel in which shall be entered the name and usual place of residence of every person admitted as a guest in the hotel and occupying a room therein alone or with another person. R.S.O. 1950, c. 172, s. 2.

Register to be kept

3. The owner and the manager of an hotel who fails to keep the register required by section 2 or to see that the particulars required by section 2 are entered therein, or who knowingly and wilfully permits an untrue statement as to the name or place of residence of a guest to be entered in the register is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50, and in default of payment may be imprisoned for a term of not more than three months. R.S.O. 1950, c. 172, s. 3.

Offence

4. Every person who applies for admission as a guest in an hotel and who registers under or represents himself as bearing some other name than his own, or who in registering or procuring admission to an hotel, makes a false statement as to his ordinary place of residence, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200, and in default of payment may be imprisoned for a term of not more than three months. R.S.O. 1950, c. 172, s. 4.

Offence

5.—(1) In every room used for sleeping accommodation in an hotel there shall be kept posted in a conspicuous place a notice specifying the rates charged for the room.

Notice of rates to be posted

Offence

(2) Every owner and every manager of an hotel who fails to keep posted the notice required by subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 172, s. 5.

CHAPTER 181

**The Hours of Work and Vacations
with Pay Act****1. In this Act,**Interpre-
tation

- (a) "Board" means the Industry and Labour Board;
- (b) "employee" means a person who is in receipt of or entitled to compensation for labour or services performed for another;
- (c) "employer" includes every person, firm, corporation, agent, manager, representative, contractor or subcontractor having control, direction of, or responsible, directly or indirectly, for the employment of an employee;
- (d) "industrial undertaking" means,
 - (i) every establishment and undertaking and all work in or about any industry, and
 - (ii) any establishment, undertaking or work in or about any business, trade or occupation that is prescribed by the regulations;
- (e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 173, s. 1.

2.—(1) Subject to this Act, the working hours of an employee in an industrial undertaking shall not exceed eight in the day and forty-eight in the week. Limitation
of hours
of work

(2) Subject to this Act, every employee in an industrial undertaking shall be given a vacation of at least one week with pay for every working year of his employment. Vacations

(3) The employer may determine the period when each employee may take the vacation provided for in subsection 2, but the period shall not be later than ten months after the conclusion of the working year. Employer
may deter-
mine period
of vacation

(4) The amount of pay for the vacation given to an employee in respect of each working year under subsection 2 shall not be less than an amount equal to 2 per cent of the Amount of
pay for
vacation

pay received by the employee for all work done by him in the working year. R.S.O. 1950, c. 173, s. 2.

Supervisors
and
confidential
employees
exempted

3. Subsection 1 of section 2 does not apply to a person holding a position of supervision or management or employed in a confidential capacity so long as the duties performed by him are entirely of a supervisory, managerial or confidential character and do not include any work or duty customarily performed by an employee, and in case of dispute as to whether a person holds such a position or is so employed, the decision of the Board is final. R.S.O. 1950, c. 173, s. 3.

Agreements

4. Where in the opinion of the Board it is not feasible to apply subsection 1 of section 2 or the regulations in an industrial undertaking or branch thereof, the Board may by order authorize such daily and weekly limit of working hours in the industrial undertaking or branch or by any class or group of employees as are agreed upon in writing between organizations or representatives of the employees and employers affected and as the Board deems proper. R.S.O. 1950, c. 173, s. 4.

War
industries

5. Where in the opinion of the Board an industrial undertaking or branch thereof is a war industry and it is not feasible to apply subsection 1 of section 2 or the regulations, the Board may suspend subsection 1 of section 2 or any of the regulations with regard to the industrial undertaking or branch thereof or any class or group of employees so long as the industrial undertaking or branch continues to be a war industry, upon such terms and conditions as the Board deems advisable, or may, by order, authorize such working hours as it deems proper. R.S.O. 1950, c. 173, s. 5.

Accidents,
exemptions

6. The limit of hours of work prescribed by subsection 1 of section 2 may be exceeded in case of accident, or in case of work urgently required to be done to machinery or plant, or in case of force majeure, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. R.S.O. 1950, c. 173, s. 6.

Inquiry into
partnership,
association,
or scheme

7.—(1) The Board may hold an inquiry into the facts respecting any persons engaged or working in or about an industrial undertaking as members or alleged members of a partnership or association, or in the execution of any agreement or scheme of profit-sharing or co-operative or joint contract or undertaking, including the investigation of the contractual and other relations of the persons so engaged or working, as between themselves or as between them and their

master or employer, and, if the Board is of opinion that the partnership, association, agreement or scheme is intended or has the effect, either directly or indirectly, of defeating the true intent and object of this Act, the Board may make such order as it deems proper declaring any of such persons or any class or group thereof to be employers and any of such persons or any class or group thereof to be employees for the purposes of this Act.

(2) For the purposes of any such inquiry, the chairman of the Board has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 173, s. 7. Powers of chairman on inquiry
R.S.O. 1960, c. 323

8.—(1) An employer shall, on demand of the Board or of the chairman or of any person authorized in writing by the Board or by the chairman, produce for inspection all records kept by him relating to the hours of labour of any person employed by him. Production of records

(2) The Board may by notice in writing require an employer forthwith, or within a time stated in the notice, to make provision for the true and correct recording of the hours of work of each of his employees, with respect to starting-time, stopping-time and rest intervals, by means of time-clocks or in such manner as the Board directs. R.S.O. 1950, c. 173, s. 8. Time-clocks

9.—(1) The Board or any member thereof, or any person authorized in writing by the chairman, may, Inspection and production of records

- (a) inspect and examine all books, pay-rolls and other records of any employer that in any way relate to the hours of labour of any of his employees;
- (b) take extracts from or make copies of any entry in such books, pay-rolls and records;
- (c) require any employer to make or furnish full and correct statements, either orally or in writing in such form as is required, respecting the hours of work of any of his employees, and require the statements to be made by the employer on oath or to be verified by his statutory declaration;
- (d) require any employee to make full disclosure, production or delivery to the Board, or to the person so authorized, of all records, documents, statements, writing, books or papers, or extracts therefrom or copies thereof, or other information either verbal or in writing that the employee has in his possession

or under his control and either verified on oath or otherwise as is directed, which may in any way relate to his hours of work as an employee.

Power to
administer
oaths

(2) The members of the Board and every person authorized pursuant to subsection 1 has power to administer all oaths and take all affidavits and statutory declarations required or authorized to be made under subsection 1 and to certify to the administration or taking thereof. R.S.O. 1950, c. 173, s. 9.

Regulations

10. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) prescribing any establishment, undertaking or work in or about any business, trade or occupation that shall be deemed to be an industrial undertaking for the purposes of this Act;
- (b) prescribing industrial undertakings and branches thereof in which the working hours prescribed by subsection 1 of section 2 may be exceeded either by specified times or under specified conditions or generally, prescribing, in each case, the maximum of such excess and imposing terms and conditions in connection therewith;
- (c) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (d) for the purposes of subsection 2 of section 2, prescribing the working year in any industry in terms of weeks, days or hours with all reasonable allowances for overtime work, seasonal employment and other special conditions, and, where the working year is less than the equivalent of eight months of work at normal hours, providing for the pro-rationing of the vacation referred to in such subsection;
- (e) providing for the application of subsection 2 of section 2 where, owing to illness or other unavoidable absence an employee has been absent from his employment, and such other regulations as it deems necessary for the due application and administration of such subsection;
- (f) providing, in lieu of a vacation with pay, for the payment to an employee who has ceased to be employed by an employer, of an amount equal to two per cent of his total earnings for the period in respect of which he is entitled to a vacation with pay, and

fixing the minimum periods of employment to which a regulation made under this clause shall apply;

- (g) providing for a system of vacation-with-pay credit stamps for use in such industrial undertakings as are designated and providing for the sale and redemption of such stamps;
- (h) requiring employers in any industrial undertaking or branch thereof to notify employees, by the publication of such notices as it determines or in such other manner as it prescribes, of the provisions of this Act, any regulations or orders made hereunder, particulars of hours of work including the hours at which work begins and ends, the hours at which shifts change, particulars of rest periods and such other information as is prescribed;
- (i) prescribing the records that shall be kept and the returns that shall be made by employers. R.S.O. 1955, c. 173, s. 10.

11.—(1) Every employer who employs a person or permits an employee to work contrary to this Act or the regulations or an order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than a total of \$5 in respect of each employee for each day during the continuance of the contravention. Offence,
employers

(2) Every employer who contravenes any provision of this Act or the regulations or any order or requirement of the Board is guilty of an offence and on summary conviction if no other penalty is provided is liable to a fine of not less than \$25 and not more than \$500. Idem

(3) Every employee who contravenes any provision of this Act or the regulations or an order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$25. R.S.O. 1950, c. 173, s. 11. Offence,
employees

12.—(1) In addition to the penalty imposed on an employer for failure to grant a vacation with pay to an employee, the magistrate may order the employer to pay to the employee an amount equal to the pay he would have received for such vacation or the amount to which he would be entitled under the regulations. Additional
penalty

(2) An order made under subsection 1 shall be filed in a division court where, Filing of
order

- (a) the conviction upon which the order is based,
 - (i) is not appealed from within the time prescribed therefor, or
 - (ii) is confirmed upon appeal; and

R.S.O. 1960,
c. 110

- (b) the fee prescribed under *The Division Courts Act* is paid to the clerk of the division court,

and such order thereupon is of the same force and effect as a judgment in the division court. R.S.O. 1950, c. 173, s. 12.

Conflict
with other
Acts

13. Where there is conflict between the provisions of this Act or any regulation or order made under this Act and the provisions of any other Act of the Legislature or any regulation made thereunder, the provision that provides for shorter working hours prevails, and in all questions of doubt or dispute the decision of the Board is final. R.S.O. 1950, c. 173, s. 13.

Expenses
of adminis-
tration

14. The expenses incurred in the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 173, s. 14.

CHAPTER 182

The Housing Development Act**1. In this Act,**Interpre-
tation

- (a) "building development" means a project designed to furnish housing accommodation with or without public buildings, recreational facilities, industrial and commercial buildings or space appropriate therefor, and includes a plan for the re-development of land devoted to urban uses designed to increase and improve the housing accommodation thereon; and
- (b) "building development corporation" means a corporation authorized to undertake a building development that is approved by the Lieutenant Governor in Council, and includes any authority established by a municipality to undertake a building development. R.S.O. 1950, c. 174, s. 1.

2. The Lieutenant Governor in Council may guarantee money loaned to persons by corporations authorized to loan money if the money so loaned is to be used in the construction of housing accommodation. R.S.O. 1950, c. 174, s. 2.

Govern-
ment may
guarantee
housing
loans

3. The Lieutenant Governor in Council may make grants in aid of any building development. R.S.O. 1950, c. 174, s. 3.

Government
may make
grants

4. The Lieutenant Governor in Council may advance moneys or guarantee moneys to be advanced to any building development corporation undertaking a building development. R.S.O. 1950, c. 174, s. 4.

Government
may assist
in financing

5. Notwithstanding any other Act, any municipality, with the approval of the Lieutenant Governor in Council, may advance moneys or guarantee moneys to be advanced to any building development corporation undertaking a building development, and may issue debentures therefor. R.S.O. 1950, c. 174, s. 5.

Municipali-
ties may
assist in
financing

Joint
housing
projects
authorized

1953-54, o. 23
(Can.)

Manage-
ment
corpora-
tions

Provincial
share of
cost

Powers of
municipal-
ities
under joint
housing
agreements

1945
(2nd Sess.)
c. 15 (Can.)

R.S.O. 1960,
c. 23

6.—(1) The Crown in right of Ontario represented by the Minister of Planning and Development may make agreements with the Crown in right of Canada represented by the Minister of Public Works or such other Minister as is authorized in that behalf, respecting joint projects for the acquisition and development of land for housing purposes and for the construction of houses for sale or for rent as contemplated in section 36 of the *National Housing Act, 1954* (Canada).

(2) The Lieutenant Governor in Council may constitute corporations with such powers and duties as are deemed expedient to carry out any of the terms of any agreement made under subsection 1, including power to plan, construct and manage any joint housing project undertaken under any such agreement and including power to acquire and dispose of land in its own name. R.S.O. 1950, c. 174, s. 6 (1, 2).

(3) Any moneys required to be furnished by the Crown in right of Ontario under any agreement made under subsection 1 shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 174, s. 6 (3); 1957, c. 47, s. 1.

(4) Notwithstanding any other Act, the council of a municipality that enters into or has heretofore entered into an agreement with Her Majesty the Queen in right of Ontario, or with Her Majesty the Queen in right of Ontario and Central Mortgage and Housing Corporation, a corporation established by *The Central Mortgage and Housing Corporation Act* (Canada), pursuant to *The Housing Development Act, 1948* or this Act or a predecessor of this Act shall be deemed to have and to have had authority to enter into such agreement and shall have all such powers as may be necessary to carry out the provisions thereof or of any undertaking given by such council pursuant thereto, and, without limiting the generality of the foregoing, such council may incur continuing obligations and make provisions for the discharge thereof and may contribute moneys to and expend moneys on joint housing projects and raise moneys therefor by the issue of debentures, all without the assent of the electors and without reference to the Ontario Municipal Board, and such council may apportion any debt or obligation arising out of such agreement in such manner as it deems equitable against any properties, whether such properties form part of a project within the meaning of such agreement or are adjacent thereto, and such debt or obligation when so apportioned shall be deemed to be a land tax within the meaning of *The Assessment Act* and recoverable as such.

(5) The Crown in right of Ontario may agree to pay annually to any municipality, in respect of any lands acquired for a joint housing project within the municipality, a sum of money calculated on any basis whatsoever but not in excess of the amount that in the opinion of the Minister of Municipal Affairs would have been payable to the municipality as taxes on such lands if they had not been exempt from taxation.

Payments
in lieu
of taxes

(6) Where an agreement under subsection 5 is in force in respect of land occupied by tenants, the land is nevertheless exempt from taxation, including local improvement rates.

Tax exemp-
tion for
tenant-
occupied
lands

(7) The right to vote of such tenants is not affected by subsection 6, and the assessment rolls and voters' lists shall be prepared in the usual manner as if subsection 6 had not been passed. 1952, c. 39, s. 1.

Right to
vote not
affected

(8) Notwithstanding any other Act, the Lieutenant Governor in Council may authorize any municipality in or near which a joint housing project is undertaken to do or not to do such acts or things as are deemed expedient in order to avoid undue delay in the development of the project, including the furnishing of municipal services. R.S.O. 1950, c. 174, s. 6 (6).

Power to
expedite
develop-
ment of
projects

7.—(1) The Minister of Planning and Development may, for and in the name of Her Majesty in right of Ontario, acquire by purchase or otherwise, or, without the consent of the owner, enter upon, take and expropriate any land he deems necessary for the purposes of a housing project under section 6.

Acquisition
of land

(2) The Minister in the exercise of his powers to take land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act, they mean, where the context permits, the Minister of Planning and Development.

Expro-
priation
R.S.O. 1960,
c. 338

(3) The Minister of Planning and Development shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works enters upon, takes or uses land or property for the use of Ontario, and all the provisions of that Act, including the provisions as to compensation, apply *mutatis mutandis*.

Procedure

(4) Upon the deposit in the proper registry or land titles office of a plan and description of the land acquired by the Minister of Planning and Development, signed by him and by an Ontario land surveyor, the land so described thereupon vests in the Minister. 1952, c. 39, s. 2, *part*.

Mode of
perfecting
title

Contribution
by
corporations

8.—(1) The Crown in right of Ontario may enter into an agreement with any corporation under which the corporation will contribute moneys to any joint housing project being carried out under section 6.

Powers of
corporations

(2) Any corporation incorporated under the laws of Ontario has power to enter into and carry out such agreement. 1952, c. 39, s. 2, *part.*

Inquiry
by manage-
ment
corporation

9.—(1) With the approval of the Lieutenant Governor in Council, a corporation incorporated under subsection 2 of section 6, if requested by the municipality in which the corporation exercises its powers, may inquire into any matter relating to housing conditions or a building development in the municipality and report thereon to the municipality with its recommendations.

Payment
of
expenses

(2) The municipality at whose request an inquiry is made under subsection 1 may pay all or any part of the expenses incurred by the corporation with respect to such inquiry. 1958, c. 40, s. 1.

Moneys
required
for
purposes
of Act

10. The moneys required by the Lieutenant Governor in Council for the purposes of this Act, except section 13, shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 47, s. 2, *part.*

Cost of
adminis-
tration

11. The cost of administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 47, s. 2, *part.*

Administra-
tion of Act

12. This Act shall be administered by the Minister of Planning and Development or such other member of the Executive Council to whom it is assigned by the Lieutenant Governor in Council. R.S.O. 1950, c. 174, s. 9.

Housing
Corporation
Ltd., power
to issue
bonds, etc.
R.S.O. 1960,
c. 71

13.—(1) Notwithstanding subsection 2 of section 2 of *The Corporations Act*, Housing Corporation Limited, being a corporation incorporated by letters patent dated the 29th day of April, 1948, for the purpose and object of lending and investing money on mortgage of real estate, may issue bonds, debentures or debenture stock.

Provincial
guarantee,
etc.

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to purchase or to guarantee the payment of any notes, bonds, debentures or debenture stock issued by Housing Corporation Limited. R.S.O. 1950, c. 174, s. 10.

Advances to
Housing
Corporation
Limited

(3) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to make advances to Housing Corporation Limited in such amounts, at such times and on such

terms and conditions as the Lieutenant Governor in Council deems expedient.

(4) All moneys required for the purposes of this section shall be paid out of the Consolidated Revenue Fund. 1957, c. 47, s. 3. Advances out of Fund

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing the terms and conditions upon which money may be granted, advanced or guaranteed under this Act; and

(b) providing for the incorporation, constitution and management of building development authorities. R.S.O. 1950, c. 174, s. 11.

15. In sections 16 and 17, "housing project" means a project designed to provide housing accommodation, or to facilitate in any way the provision of housing accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto. 1955, c. 32, s. 1, *part*. Interpretation

16.—(1) For the purpose of a housing project, a municipality, with the approval of the Minister of Planning and Development, may, Acquisition of lands for housing projects

(a) acquire land in the municipality;

(b) hold land heretofore or hereafter acquired in the municipality;

(c) sell, lease or otherwise dispose of land so acquired or held for a nominal or other consideration to any person or governmental authority having power to undertake housing projects.

(2) For the purpose of a housing project, a municipality, with the approval of the Minister of Planning and Development and of the council of the municipality in which the land is situate, may exercise any of the powers mentioned in subsection 1 in respect of land in an adjacent municipality. Adjacent municipality

(3) The provisions of *The Municipal Act* apply to the acquisition of land under this section. Application of R.S.O. 1960, c. 249

(4) Where a municipality acquires land under this section, the whole or part of the consideration therefor may be land then owned by the municipality. Exchange of lands

(5) Where a municipality has acquired or holds land under this section, the municipality may clear, grade or otherwise prepare the land for the purpose of the housing project. 1955, c. 32, s. 1, *part*. Power to clear, grade, etc.

Agreements
re housing
projects

17. A municipality, with the approval of the Minister of Planning and Development, may,

- (a) enter into an agreement with any person or governmental authority for sharing or contributing to the capital cost or the maintenance cost of a housing project;
- (b) enter into an agreement with any person or governmental authority undertaking a housing project to provide that certain specified uses of land in a specified area surrounding or adjacent to the project will be maintained for the period specified in the agreement. 1955, c. 32, s. 1, *part*.

Temporary
housing
projects

18. To relieve any emergency in housing conditions, a municipality, with the approval of the Minister of Planning and Development, may erect, maintain, manage and wind up projects for temporary housing accommodation either in or outside the municipality. 1955, c. 32, s. 1, *part*.

CHAPTER 183

The Indian Welfare Services Act**1. In this Act,**Interpre-
tation

- (a) "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);

R.S.C. 1952,
c. 149

- (b) "Minister" means the Minister of Public Welfare. 1955, c. 33, s. 1.

2. Every Indian resident in Ontario is entitled to the benefits of *The Blind Persons' Allowances Act*, *The Disabled Persons' Allowances Act* and *The Old Age Assistance Act* to the same extent as any other person. 1955, c. 33, s. 2; 1958, c. 41, s. 1.

Indians
eligible
for welfare
benefits
R.S.O. 1960,
cc. 35, 107,
267

3. An allowance under *The Mothers' and Dependent Children's Allowances Act* may be paid to an Indian mother of a dependent child where the mother is a widow or where her husband is a dependent father within the meaning of that Act. 1958, c. 41, s. 2.

Mothers'
allowances
R.S.O. 1960,
c. 247

4. The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada, or an agency thereof,

Canada-
Ontario
agreements
authorized

- (a) to provide compensation to any children's aid society that extends its facilities and services to Indians;
- (b) to provide compensation to any authority operating a home for the aged that provides accommodation and care for Indians;
- (c) respecting the payment of the cost of providing general welfare assistance for Indians;
- (d) respecting the payment of the cost of providing rehabilitation services for Indians; and
- (e) respecting the provision and payment of such other services as will promote the well-being of Indians. 1955, c. 33, s. 3; 1958, c. 41, s. 3.

Advisory
committee

5. The Lieutenant Governor in Council may appoint an advisory committee composed of such number of persons as are deemed appropriate to advise the Minister on all matters under this Act and to make recommendations to him from time to time respecting any other matter that may encourage Indians in the development of their independence and promote their integration with the rest of the community. 1955, c. 33, s. 4.

CHAPTER 184

**The Industrial and Mining Lands
Compensation Act**

1. It is lawful for an owner or operator of a mine, factory, industry or works, or a person contemplating acquiring or operating a mine, factory, industry or works, to make an agreement with the owner or lessee of any land for payment to the owner or lessee of the land of compensation for any damage or injury resulting or likely to result to the land or to its use and enjoyment from the operation of the mine, factory, industry or works in connection therewith. R.S.O. 1950, c. 177, s. 1, *amended*. Agreement
for com-
pensation

2. The agreement, if so expressed therein, binds and ensures to the benefit of the heirs, executors, administrators and assigns, or the successors and assigns of the parties thereto, and may relate not only to a mine, factory, industry or works then in operation, but may also relate to a mine, factory, industry or works that may thereafter be established by the party paying the compensation, within a specified area, even though the land upon which the mine, factory, industry or works is thereafter operated is not at the time owned or leased by the party making the compensation. R.S.O. 1950, c. 177, s. 2, *amended*. Effect and
extent of
operation of
agreement

3. Where the land in respect of which the agreement is made is not under *The Land Titles Act*, the agreement shall be registered, and where the land is under *The Land Titles Act*, a notice of the agreement shall be registered in the register of the title of the parcel of land on which the burden is imposed with a note referring to this Act, and any subsequent agreement cancelling an agreement so registered or in respect of which a notice is registered shall in like manner be registered or the notice deleted, as the case may be. R.S.O. 1950, c. 177, s. 3, *amended*. Registra-
tion of
agreement
R.S.O. 1960,
c. 204

4. The payment of compensation under the agreement affords a complete answer to any action that may be brought for damages or for an injunction in respect of any matter for which compensation has been made. R.S.O. 1950, c. 177, s. 4. Payment of
compen-
sation to
be an
answer to
action

CHAPTER 185

The Industrial Farms Act

1.—(1) The council of a county or of a city having a population of not less than 50,000 as shown by the last census taken under the authority of the Parliament of Canada may pass by-laws for establishing, equipping and maintaining one or more industrial farms which, in the case of a city, may be established in or outside the limits of the city, and for acquiring the lands necessary for that purpose.

City and
county
industrial
farms

(2) One or more industrial farms may be established anywhere in Ontario by the Lieutenant Governor in Council.

Provincial
industrial
farms

R.S.O. 1950, c. 178, s. 1.

2. An industrial farm shall not be established until the site and plans for the buildings to be erected thereon have been approved by the Lieutenant Governor in Council on the report of an officer authorized by the Lieutenant Governor in that behalf, or an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act*.

Site and
plans must
be approved

R.S.O. 1960,
c. 291

R.S.O. 1950, c. 178, s. 2.

3.—(1) The Lieutenant Governor in Council may order that from a day to be named in the order an industrial farm is the common jail within the meaning of *The Jails Act* of any counties or provisional judicial districts or of any combination of counties and provisional judicial districts.

Industrial
farms may
become
common
jails

R.S.O. 1960,
c. 195

(2) No such order shall be made until an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* has reported that a sufficient lock-up for the safe custody of prisoners held or committed for trial or on remand in each county or district named in the order or in custody prior to the committal for trial, or pending their removal to the industrial farm, reformatory for Ontario, or penitentiary, has been provided in or near the county or district town.

Condition
precedent
to order
in council

(3) The lock-up may be the building formerly used as the common jail of the county or provisional judicial district or part thereof, or some other building approved by an officer mentioned in subsection 2, and shall be established, equipped and maintained without cost to the Province.

Look-up

R.S.O. 1950, c. 178, s. 3.

Joint
action by
two or
more mun-
icipal cor-
porations

R.S.O. 1960,
c. 291

4. In lieu of establishing separate industrial farms, the councils of two or more counties or cities may, with the approval in writing of an officer authorized by the Lieutenant Governor in that behalf, or an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act*, enter into an agreement for the establishment, equipment and maintenance of, and may establish, equip and maintain an industrial farm. R.S.O. 1950, c. 178, s. 4.

Transfer
from jail
to indus-
trial farm

5.—(1) Prisoners who are convicted of offences against any Act of the Legislature or against a municipal by-law or who may be lawfully committed for offences against the criminal law may be transferred on a warrant of an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* from a common or district jail or from any other place of legal custody to an industrial farm. R.S.O. 1950, c. 178, s. 5 (1); 1960, c. 49, s. 1.

Transfer
of prisoners

(2) A male prisoner in an industrial farm whose sentence has not expired may be transferred to an Ontario reformatory or to the jail of the county or district in which he was sentenced or to any other industrial farm or jail upon the warrant of an officer mentioned in subsection 1, and any such officer may also direct the removal of any female prisoner in an industrial farm to the Andrew Mercer Reformatory for Females or to an industrial refuge for females or to the common jail of the county or district in which she was sentenced. R.S.O. 1950, c. 178, s. 5 (2).

Appoint-
ment of
superin-
tendent, etc.

6. The superintendents, guards, clerks, accountants, engineers and all other officers and employees of industrial farms shall be appointed by the Lieutenant Governor in Council upon the report of an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* and shall be paid such salaries by the county or city or authority establishing and maintaining such farms as are prescribed from time to time by the Lieutenant Governor in Council, except that in an industrial farm for male prisoners established and equipped by the corporation of a city of over 100,000 persons, the corporation of the city may appoint one engineer and one steward, but if such appointments are made, the engineer and the steward shall be subject to the same discipline and the same rules and regulations as any other officer or employee of such farm. R.S.O. 1950, c. 178, s. 6.

Agreements
for extend-
ing sewer-
age system
to industrial
farm

7.—(1) The council of a county or city that has established an industrial farm or industrial farms may from time to time enter into an agreement or agreements for connecting the industrial farm or industrial farms with the sewerage system of

any municipal corporation and may pass all by-laws and do all things necessary to carry the agreement or agreements into effect.

(2) The council of such a county or city may contract with The Hydro-Electric Power Commission of Ontario or with any municipal corporation, company, firm or individual owning or operating a waterworks system or works for the production and supply of electricity for light, heat or power, for the supply of water for domestic purposes and for fire protection, or for the supply of electricity for light, heat or power purposes at the industrial farm or industrial farms.

Contracts for supplying water, light and power

(3) For the purpose of connecting the industrial farm or industrial farms with a sewerage or waterworks system or electrical works, the corporation of the county or city, its officers, servants, agents or workmen may enter upon and pass over any lands or highways lying between the industrial farm or industrial farms and the points of connection, and may dig up the lands and highways and construct sewers and lay down pipes and place all necessary poles, wires and appliances and do all necessary work in or upon the lands and highways, making due compensation to the owners as provided by *The Municipal Act*.

Power to carry necessary works over intervening lands

R.S.O. 1960, c. 249

(4) Where two or more such counties or cities have established a joint industrial farm or industrial farms, they have in respect of the industrial farm or industrial farms, all the powers conferred upon the council of a county or city by this section. R.S.O. 1950, c. 178, s. 7.

Powers of corporations establishing a joint industrial farm

8. It is not necessary to obtain the assent of the electors to a by-law for raising such moneys as may be required for the establishment, equipment and maintenance of an industrial farm or for the acquiring of lands required for that purpose. R.S.O. 1950, c. 178, s. 8.

Assent of electors not required to by-law establishing industrial farm

9. The Lieutenant Governor in Council, upon the recommendation of an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act*, may make rules and regulations for the management, discipline, government and control of industrial farms and prescribing the requirements to be observed in keeping the buildings, plants and machinery in repair. R.S.O. 1950, c. 178, s. 9.

Rules and regulations

R.S.O. 1960, c. 291

10. Rules and regulations made under this Act may provide for requiring every prisoner committed to an industrial farm to perform such work or services at such time, for such hours and at such trade or labour as are deemed advisable,

Work of prisoners

and for buying material therefor, and for selling or otherwise disposing of the articles manufactured or produced therefrom. R.S.O. 1950, c. 178, s. 10.

Employment
beyond the
precincts

11.—(1) The Lieutenant Governor in Council may authorize, direct or sanction the employment of any prisoner upon any specific work or duty beyond the limits of the industrial farm.

Conditions
of employ-
ment

(2) Every such prisoner during such employment is subject to this Act and the regulations and the discipline of the industrial farm. R.S.O. 1950, c. 178, s. 11.

In case
of joint
farms

12.—(1) In the case of a joint industrial farm, the counties or cities by which it is established shall provide, by agreement, the proportions in which the cost of the maintenance of the joint industrial farm, including the salaries of the superintendent and officers and employees thereof, and of the persons committed or transferred to it, and all other expenses incidental thereto, shall be borne by them respectively, and by which of them such costs and expenses shall be paid in the first instance, and the terms of the agreement may be varied from time to time as occasion requires and, if the corporations are unable to agree as to the variation, it shall be determined by arbitration under *The Municipal Act*, but no such variation, except by agreement, shall be made more often than once in every five years. R.S.O. 1950, c. 178, s. 12 (2); 1960, c. 49, s. 2 (2).

R.S.O. 1960,
c. 249

Cost of
main-
tenance

(2) The cost of the establishment, equipment and maintenance of an industrial farm referred to in subsection 2 of section 1 shall be borne and paid by the Province. R.S.O. 1950, c. 178, s. 12 (3).

Monthly
reports
by superin-
tendent

R.S.O. 1960,
c. 291

13. The superintendent of an industrial farm shall, during the first week of each calendar month, transmit by registered mail to an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* a report showing the number of prisoners admitted, discharged, paroled or deceased in the industrial farm during the preceding month, on the form prescribed by such officer, together with such other particulars as he requires. R.S.O. 1950, c. 178, s. 13.

CHAPTER 186

The Industrial Standards Act

1. In this Act,

Interpre-
tation

- (a) "association of employees" means a group of employees organized for the purpose of advancing their economic conditions and that is free from undue influence, domination, restraint or interference by employers or associations of employers;
- (b) "Board" means the Industry and Labour Board appointed under *The Department of Labour Act*; R.S.O. 1960,
c. 97
- (c) "employer" includes a person who by himself or his agent or representative is directly or indirectly responsible for the payment of wages to a person who comes within the provisions of a schedule promulgated as hereinafter provided;
- (d) "industry" includes a business, calling, trade, undertaking and work of any nature whatsoever and any branch thereof and any combination thereof that the Minister designates;
- (e) "Minister" means the Minister of Labour or such member of the Executive Council as is for the time being charged with the administration of this Act;
- (f) "officer" means an industrial standards officer appointed under this Act;
- (g) "wages" includes any form of remuneration for labour performed and, without restricting the generality of the foregoing, includes payment at an hourly, daily, weekly or monthly rate or on a production basis at a piece-work or unit-price rate. R.S.O.
1950, c. 179, s. 1.

2. The Lieutenant Governor in Council may appoint one or more persons as industrial standards officers whose duty it is to assist in carrying out this Act and the regulations and schedules. Appoint-
ment of
industrial
standards
officers R.S.O. 1950, c. 179, s. 2.

3. Every officer has such powers and duties as are prescribed by this Act and the regulations and has authority to conduct inquiries and investigations respecting all matters Powers and
duties of
officers

R.S.O. 1960,
c. 323

coming within the scope of this Act and of the regulations and, for such purposes, has all the powers, rights and privileges that may be conferred on a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1950, c. 179, s. 3.

Minister
may define
zones

4.—(1) The Minister may designate the whole of Ontario, or any part or parts thereof, as a zone or zones for an industry for the purposes of this Act.

Reduction
of zone area

(2) An area so designated as a zone may be enlarged or reduced or divided into separate zones by the representatives of employers and employees in any conference held as hereinafter provided and, upon the approval of the Minister, the area as enlarged, reduced or divided, shall be deemed to be the designated zone or zones for the industry affected.

Interpro-
vincially
competitive
industries

(3) Where the Minister designates a zone for an interprovincially competitive industry, the zone shall, notwithstanding subsections 1 and 2, be the whole of Ontario and any schedule for the industry may provide for different wages and hours and days of labour for different areas in the zone. R.S.O. 1950, c. 179, s. 4.

Powers of
Board

5. The Board has jurisdiction and authority,

- (a) to administer and enforce this Act, the regulations and the schedules;
- (b) to hear appeals from the decisions of any advisory committee;
- (c) with the concurrence of the proper advisory committee and subject to the approval of the Lieutenant Governor in Council, to make an order amending any schedule;
- (d) to require any employer to pay to the Board the arrears of wages owing to an employee or employees according to any schedule and in its discretion to direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto;
- (e) to determine and designate which industries are interprovincially competitive, and with respect to any such industry,
 - (i) may approve or withhold approval of a schedule with respect to the collection of revenue from employers and employees in the industry and with respect to the exercise by the advisory committee of any powers in connection with the collection of such assessments and the disbursement of moneys collected, except that the

assessments that may be approved shall not exceed one-half of one per cent of an employee's wages and one-half of one per cent of an employer's pay-roll,

- (ii) may require the advisory committee to furnish estimates of receipts and expenses annually, and to furnish quarterly reports, certified by an auditor approved by the Board, accounting for all money collected and disbursed. R.S.O. 1950, c. 179, s. 5; 1957, c. 49, s. 1.

6. The Minister may, upon the petition of representatives of employers or employees in an industry in a designated zone or zones, authorize an officer to convene a conference of the employers and employees in the industry for the purpose of investigating and considering the conditions of labour and the practices prevailing in the industry and for negotiating with respect to any of the matters enumerated in subsection 1 of section 7. R.S.O. 1950, c. 179, s. 6.

Officer may
convene
conference

7.—(1) The conference may submit to the Minister in writing a schedule of wages and hours and days of labour for the industry affected and the schedule may,

Conference
to report to
Minister

- (a) establish the maximum number of hours comprising the regular working day and prescribe the hours of the day during which such hours of work are to be performed;
- (b) establish the maximum number of hours comprising the regular working week;
- (c) establish the minimum rates of wages for the regular working periods;
- (d) establish the particular days in the week for the performance of labour in the industry;
- (e) establish the rates of wages and the periods for, and the conditions governing, overtime work;
- (f) classify the employees and employers and separately provide for each classification with respect to any of the matters that may be dealt with in the schedule;
- (g) define any term used in the schedule;
- (h) specify the particular operations that are included in the industry;
- (i) prohibit overtime work without a permit and authorize the advisory committee to issue the permits subject to the terms and conditions of the schedule;

- (j) fix the minimum charge that is to be paid, accepted or contracted for with respect to the labour content of any service, work, operation or art and, with the approval of the Board, fix the minimum charge that an employer or employee is to contract for or accept for any service, work, operation or art;
- (k) authorize the advisory committee to fix a minimum rate of wages lower than the rate fixed by the schedule for any classification of employees or for any individual who performs work included in more than one classification of employees, or whose work is only partly subject to the schedule, or who is handicapped;
- (l) subject to the approval of the Board and with respect only to an interprovincially competitive industry, assess employers only or employers and employees in any such industry to provide revenue for the enforcement of the schedule, and authorize the advisory committee generally to administer and enforce the schedule, and to collect the assessments, and out of the revenue collected to engage inspectors and other personnel and to make such expenditures as are necessary for such administration and enforcement. R.S.O. 1950, c. 179, s. 7 (1); 1957, c. 49, s. 2, *part*.

When
advisory
committee
fixes rate
lower than
schedule

(2) When the advisory committee fixes a minimum rate of wages lower than the rate fixed by the schedule, such lower rate shall be deemed to be the rate fixed by the schedule. 1957, c. 49, s. 2, *part*.

Minister
may revise
schedule of
wages, etc.
R.S.O. 1960,
o. 349

(3) The Minister may revise any schedule of wages and hours and days of labour submitted to him by a conference so that it will meet the requirements of *The Regulations Act* and the regulations made thereunder. R.S.O. 1950, c. 179, s. 7 (2).

Formulation
of schedule
of wages
hours, days
of labour

8. If, in the opinion of the Minister, the schedule of wages and hours and days of labour submitted by the conference is agreed to by a proper and sufficient representation of employers and employees, he may approve thereof and upon his recommendation the Lieutenant Governor in Council may declare the schedule to be in force during pleasure, or for the period not exceeding twelve months stipulated in the schedule, within such designated zone or zones as are prescribed and to be binding upon the employers and employees in the industry referred to in the schedule. R.S.O. 1950, c. 179, s. 8.

Posting of
schedule

9. Every employer affected by a schedule shall cause a copy of the schedule to be posted in a conspicuous place

where his employees are engaged in their duties so that it may be readily seen and read by them and shall cause the schedule to be there maintained so long as it remains in force. R.S.O. 1950, c. 179, s. 9.

10. For the purposes of this Act every person who is in any way engaged in an industry shall, in so far as he personally performs work in the industry, be deemed an employee and, in so far as he employs another person or is the proprietor of a shop or business either alone or in partnership with another person, be deemed an employer, and this Act and the regulations and schedules shall, *mutatis mutandis*, be read and construed accordingly, notwithstanding that he may thereby become both an employer and an employee or may become an employer for one purpose and an employee for another purpose, or that his status may be changed from time to time. R.S.O. 1950, c. 179, s. 10.

One man operators and partners within the scope of the Act

11. When a schedule is in force, the Board may require any employer affected thereby,

Employers to furnish information and produce records when required by Board

(a) to furnish the name, address and age of all employees and such further information respecting wages, hours and days and conditions of labour as are required by the regulations; and

(b) to produce for inspection by any person acting under the authority of this Act or any schedule any books, registers, pay-rolls, financial statements, attendance records, time records, contracts of employment and such other information as is deemed necessary and to give access to the employer's premises at all reasonable times to such person for the purpose of obtaining such information. R.S.O. 1950, c. 179, s. 11.

12. The Lieutenant Governor in Council may make such regulations as he deems necessary for carrying out this Act and for its efficient administration. R.S.O. 1950, c. 179, s. 12.

Regulations

13.—(1) For every zone or group of zones to which a schedule applies, the Minister may establish an advisory committee of not more than five members, one of whom shall be designated as chairman, and the committee may hear complaints of employers and employees to whom such schedule applies and may generally assist in carrying out this Act and the regulations and have jurisdiction and authority to do anything that it is authorized to do by such schedule and shall be

Advisory Committee

deemed to be a corporation for the purpose of collecting any money that it is authorized to collect or paying any money that it is authorized to pay.

Right of
appeal

(2) An employer or employee aggrieved by the decision of an advisory committee has a right to appeal from the decision to the Board and the Board has jurisdiction to hear and determine the appeal and its decision is final. R.S.O. 1950, c. 179, s. 13.

Offence

14.—(1) Every employer who contravenes the provisions of a schedule applicable to him is guilty of an offence and on summary conviction for a first offence is liable to a fine of not less than \$25 and not more than \$100, and in default of payment to imprisonment for a term of not more than two months, and for any subsequent offence is liable to a fine of not less than \$50 and not more than \$500, and in default of payment to imprisonment for a term of not more than six months, and, if convicted for failing to pay the minimum rate of wages prescribed by a schedule applicable to him, shall be ordered to pay to the Board as an additional penalty the full amount of the wages then found to be unpaid to any employee under the schedule.

Idem

(2) Every employee who contravenes the provisions of a schedule applicable to him is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$25 and in default of payment to imprisonment for a term of not more than ten days.

Consent to
prosecution

(3) No prosecution shall be instituted under this Act except with the consent of the Board and the production of a writing signed by a member of the Board is sufficient evidence of the consent of the Board. R.S.O. 1950, c. 179, s. 14.

Offence

15. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where no penalty has been specifically provided, is liable to a fine of not less than \$1 and not more than \$100 and in default of payment to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 179, s. 15.

Application
of other
Acts
R.S.O. 1960,
cc. 130, 230,
240, 328,
421, 435

16.—(1) *The Factory, Shop and Office Building Act, The Master and Servant Act, The Minimum Wage Act, The Public and other Works Wages Act, The Wages Act and The Woodmen's Employment Act* shall be read and construed subject to this Act, but in no case shall the wages prescribed by a schedule to this Act be for a less amount nor shall the hours of labour prescribed by a schedule be for a greater number of hours in each day or days in each week than is prescribed by any of such Acts.

(2) The rates of wages prescribed by any schedule shall not be for lesser amounts nor shall the number of hours of labour in each day or the number of days of labour in each week be greater than is provided in *The Hours of Work and Vacations with Pay Act*, *The Minimum Wage Act* or *The Factory, Shop and Office Building Act* and the regulations thereunder. Rates of wages
R.S.O. 1960.
c. 181,
240, 130

(3) The rates of wages for apprentices to whom *The Apprenticeship Act* applies shall be the rates provided under that Act and the regulations thereunder. Wages of apprentices
R.S.O. 1960,
c. 17 R.S.O. 1950, c. 179, s. 16.

17. No schedule is applicable to the mining industry, to the agricultural industry or to any other business, calling, trade, undertaking or work exempted by the regulations. Where
schedule
not to apply R.S.O. 1950, c. 179, s. 17.

18.—(1) In this section, "retail gasoline service industry" means the business of operating retail gasoline service stations, gasoline pumps or outlets where gasoline is offered for sale at retail, including washing, waxing, oiling or lubricating automotive vehicles, repairing or changing tires and other services and undertakings incidental thereto, but does not include a gasoline outlet on the premises of an employer and used in the fueling of automotive vehicles owned or operated by the employer. Interpre-
tation

(2) Notwithstanding anything in this Act, no schedule applicable to the retail gasoline service industry shall prescribe the hours of the day during which the hours of work may be performed or shall establish the particular days of the week for the performance of labour in the industry. Exception
as to retail
gasoline
service
industry R.S.O. 1950, c. 179, s. 18.

CHAPTER 187

The Infants Act

1.—(1) The Supreme Court or the surrogate court of the county or district in which the infant resides, upon the application of the father or the mother of an infant, who may apply without a next friend, may make such order as the court sees fit regarding the custody of the infant and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary or discharge the order on the application of either parent, or, after the death of either parent, of any guardian appointed under this Act, and in every case may make such order respecting the costs of the mother and the liability of the father for such costs, or otherwise, as the court deems just.

Orders as to custody of and right of access to infant, at the instance of father or mother

(2) Where,

(a) custody proceedings have been commenced in a surrogate court under subsection 1; and

Removal of proceedings to Supreme Court

(b) it is made to appear to a judge of the Supreme Court that proceedings in respect of custody of children, alimony, dissolution of marriage or annulment of marriage are pending between the father and mother in the Supreme Court,

the judge of the Supreme Court may order that the custody proceedings in the surrogate court be removed to the Supreme Court, and may make such order as to the hearing of the application for custody and as to costs as he deems proper.

(3) The court may also make an order for the maintenance of the infant by payment by the father, or out of any estate to which the infant is entitled, of such sum from time to time as, according to the pecuniary circumstances of the father or the value of the estate, the court deems reasonable.

Order as to maintenance

(4) Where it is made to appear to the judge of the surrogate court of the county or district in which the infant resides in whose favour an order has been made under subsection 3, that default has been made in payment of any sum of money so ordered to be paid, the judge of the surrogate court,

Enforcement of order

(a) may from time to time summon the person in default to explain the default; and

- (b) may, where service of the summons has been proved, and the person in default does not appear or sufficient reason for his absence is not given, or where it appears that the summons cannot be served, issue an order for his arrest; and
- (c) may, when an order has been issued, or where the person in default fails to satisfy the judge that the default is due to inability to pay, order and adjudge the person to be imprisoned for a term not exceeding three months unless the sums of money payable under the order are sooner paid. R.S.O. 1950, c. 180, s. 1.

Investigation by
Official
Guardian

R.S.O. 1960,
c. 232.

(5) On an application under this section, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, maintenance and education of the child, in which case section 6 of *The Matrimonial Causes Act* applies *mutatis mutandis* and the court may make an order for the payment of the Official Guardian's costs. 1954, c. 37, s. 1.

Father and
mother to
be joint
guardians

2.—(1) Unless otherwise ordered by the court and subject to this Act, the father and mother of an infant are joint guardians and are equally entitled to the custody, control and education of the infant.

Agreement
as to
custody, etc.

(2) Where the parents are not living together or where the parents are divorced or judicially separated, they may enter into a written agreement as to which parent shall have the custody, control and education of the infant, and, in the event of the parents failing to agree, either parent may apply to the court for its decision. R.S.O. 1950, c. 180, s. 2.

Rules of
equity

3. In questions relating to the custody and education of infants, the rules of equity prevail. R.S.O. 1950, c. 180, s. 3.

Where sale
or lease
of infant's
estate may
be author-
ized

4.—(1) Where an infant is seised, possessed of or entitled to any real estate in fee or for a term of years or otherwise and the Supreme Court is of opinion that a sale, mortgage, lease or other disposition of the real estate or of a part thereof, or of any timber, not being ornamental, growing thereon, is necessary or proper for the maintenance or education of the infant, or that for any cause his interest requires or will be substantially promoted by the disposition, the court may order the sale, mortgage, or the letting for a term of years, or other disposition of the real estate or a part thereof, to be made under the direction of the court or of one of its officers, or by the guardian of the infant, or by a person appointed for the purpose, in such manner and with such restrictions as are deemed expedient, and may order the infant to convey the estate.

(2) No sale, mortgage, lease or other disposition shall be made contrary to a will or conveyance by which the estate has been devised or granted to the infant or for his use. ^{Exception}

(3) The court, if it is of opinion that such course is for the benefit of the infant or that his interest requires it or will be substantially promoted thereby, may from time to time authorize the exchange of any lands held in fee or for a term of years or otherwise by the infant, and that are unproductive, for lands that are productive, but no such exchange of lands shall be made contrary to a will or conveyance. ^{Authorizing exchange of unproductive for productive property}

(4) Every exchange of lands made under subsection 3 shall be conducted and confirmed in such manner as is required by the rules and practice of the Supreme Court in the case of the sale or other disposition of the lands of infants. R.S.O. 1950, c. 180, s. 4. ^{Procedure}

5. The Supreme Court may sanction the surrender of any lease to which an infant is entitled and, if deemed expedient, the acceptance of a new lease in lieu thereof. R.S.O. 1950, c. 180, s. 5. ^{Surrender of lease}

6. Where an infant is entitled to lands subject to a lease containing a covenant for renewal, the Supreme Court may sanction the execution of a new lease in accordance with the covenant or with such modification as is deemed expedient. R.S.O. 1950, c. 180, s. 6. ^{Renewal of lease}

7. Every surrender or lease made or accepted by virtue of this Act shall be deemed to be as valid and effectual as if the person by whom or in whose place it was made or accepted had been of full age and had made or accepted it. R.S.O. 1950, c. 180, s. 7. ^{Validity of dispositions}

8. Where it is deemed convenient, the court may direct some other person to execute a conveyance, mortgage, lease or other document in the place of the infant and every such conveyance, mortgage, lease or other document, whether executed by the infant or by such other person, is as effectual as if the infant had executed it and had been of the age of twenty-one years at the time. R.S.O. 1950, c. 180, s. 8. ^{Conveyance by a substitute}

9. Where an infant is seised of the reversion of land subject to a lease and the lease contains a covenant not to assign or sublet without leave, the Supreme Court may, on behalf of the infant, consent to an assignment or transfer of the leasehold interest in the same manner and with the like effect as if the consent were given by a lessor under no such disability. R.S.O. 1950, c. 180, s. 9. ^{Consent to assignment of lease by infant}

Compensation to owners of particular estates

10. If any real estate of an infant is subject to dower and the person entitled to dower consents in writing to accept in lieu of dower a gross sum that the court deems reasonable or the permanent investment of a reasonable sum in such manner that the interest thereof is made payable to the person entitled to dower during her life, the court may direct the payment of such sum in gross out of the purchase money to the person entitled to dower as upon the principles applicable to life annuities may be deemed a reasonable satisfaction for the dower, or may direct the payment to the person entitled to dower of an annual sum or of the income or interest to be derived from the purchase money or a part thereof, as seems just, and for that purpose may make such order for the investment or other disposition of the purchase money or a part thereof, as may be necessary. R.S.O. 1950, c. 180, s. 10.

Order for maintenance where power of appointment in favour of children

11. Where by a will or other instrument property is given beneficially to a person for his life with a power of devising or appointing the property by will in favour of his children or of one or more of them, the Supreme Court may, on the application or with the consent of the tenant for life, order that such portion of the proceeds of the property as it deems proper shall be applied towards the maintenance or education of any infant child in whose favour the power might be exercised, notwithstanding that there is a gift over in the event of there being no children to take under the power, or that there is a right conferred upon the tenant for life, or upon some other person in such event to make a disposition of the property in favour of some person other than such children. R.S.O. 1950, c. 180, s. 11.

Order for application of dividends of stock for maintenance of infants

12.—(1) The Supreme Court may order and direct the sale of any personal property of an infant, including any stock or bonds to which he is entitled, and may direct any money belonging to an infant and all or any part of the dividends in respect of the stock or bonds to be paid for the maintenance and education or otherwise for the benefit of the infant, and payment in accordance with such an order operates as a full release and discharge from all liability with respect to the money paid, and a transfer of any stock or bonds so sold shall be made in such manner as the court directs.

Indemnity to banks, etc.

(2) Such an order is a full and complete indemnity and discharge to all banks, companies and societies and their officers and servants for all acts and things done or permitted to be done pursuant thereto. R.S.O. 1950, c. 180, s. 12.

Power of infant with the approbation of the court to make valid marriage settlement

13.—(1) An infant upon or in contemplation of his marriage, with the sanction of the Supreme Court, may make a valid and binding settlement or contract for a settlement of all or any part of his property or property over which he has a power of appointment, whether real or personal and

whether in possession, reversion, remainder or expectancy, and every conveyance, appointment and assignment of such property, or contract to make a conveyance, appointment or assignment thereof, executed by the infant with the approbation of the court for the purpose of giving effect to the settlement, is as valid and effectual as if the person executing it were of the full age of twenty-one years.

(2) This section does not extend to a power that is expressly declared not to be exercisable by an infant. Exception

(3) The court may require that a person interested or appearing to be interested in the property shall be served with notice of the application. Notice to persons interested R.S.O. 1950, c. 180, s. 13.

14. Where an appointment under a power of appointment or a disentailing assurance has been executed by an infant tenant in tail under section 13 and the infant afterwards dies under age, the appointment or disentailing assurance thereupon becomes void. If infant dies under age, appointment or disentailing deed to be void R.S.O. 1950, c. 180, s. 14.

15. Nothing in sections 13 and 14 applies to a male infant under the age of twenty years or to a female infant under the age of seventeen years. Case of males under 20 or females under 17 R.S.O. 1950, c. 180, s. 15.

16.—(1) The surrogate court of the county or district in which an infant resides may appoint the father or mother of the infant, or may, with the consent of the father and the mother or of the surviving parent, appoint some other suitable person or persons to be the guardian or guardians of the infant, but if the infant is of the age of fourteen years, no such appointment shall be made without his consent. Appointment of guardians by surrogate court

(2) If the infant has no parent living or a guardian authorized by law to take the care of his person and the charge of his estate, if any, or if he is of the age of fourteen years and does not give the consent mentioned in subsection 1, upon the written application of the infant, or of a friend of the infant residing within the jurisdiction of the surrogate court to which the application is made, and after proof of twenty days public notice of the application in a newspaper published in the county or district of the surrogate court in which the application is made, the court may appoint some suitable and discreet person or persons to be guardian or guardians of the infant, whether the infant is or is not entitled to any property. Where no father or authorized guardian or infant does not consent

(3) Letters of guardianship granted by a surrogate court have force and effect in all parts of Ontario, and an official certificate of the grant may be obtained as in the case of letters of administration. Letters of guardianship have effect throughout Ontario R.S.O. 1950, c. 180, s. 16.

Security by
the guardian
R.S.O. 1960,
co. 168, 71

17. Subject to *The Guarantee Companies Securities Act* and *The Corporations Act*, the court shall take from every guardian appointed under section 16 a bond in the name of the infant in such penal sum and with such sureties as the judge approves, conditioned that the guardian will faithfully perform his trust and that he or his executors or administrators will, when the infant becomes of the full age of twenty-one years or when the guardianship is determined or sooner if thereto required by law, render a true and just account of all goods, money, interest, rents, profits or other estate of the infant that have come into the hands of the guardian, and will thereupon without delay deliver and pay over to the infant or to his executors or administrators the estate or the sum that may be in the hands of the guardian belonging to the infant, deducting therefrom and retaining a reasonable sum for the expenses and charges of the guardian, and the bond shall be recorded by the registrar of the court in the books of his office. R.S.O. 1950, c. 180, s. 17.

Removal of
guardians

18.—(1) Testamentary guardians and guardians appointed or constituted by virtue of this Act are removable by the Supreme Court or by the surrogate court for the same causes for which trustees are removable.

Resignation
of office by
guardian

(2) Any such guardian may, by leave of the court, resign his office upon such terms and conditions as are deemed just. R.S.O. 1950, c. 180, s. 18.

Returns
respecting
guardians to
surrogate
court
R.S.O. 1960,
c. 388

19. A return of every appointment and removal or resignation of a guardian shall be made by the registrar of the court to the surrogate clerk in like manner as is required by *The Surrogate Courts Act* in the case of grants of probate or administration. R.S.O. 1950, c. 180, s. 19.

Guardian's
authority

20. Unless where the authority of a guardian appointed or constituted by virtue of this Act is otherwise limited, the guardian so appointed or constituted during the continuance of his guardianship,

- (a) has authority to act for and on behalf of the infant; and
- (b) has the charge and management of his estate, real and personal, and the custody of his person and the care of his education. R.S.O. 1950, c. 180, s. 20.

Appeal

21. An appeal lies from an order or judgment of a surrogate court under this Act to the Court of Appeal. R.S.O. 1950, c. 180, s. 21.

22. The practice and procedure under *The Surrogate Courts Act* and rules apply to proceedings in the surrogate court under this Act, and the power to make rules under that Act applies to proceedings under this Act. R.S.O. 1950, c. 180, s. 22. Practice and procedure R.S.O. 1960, o. 388

23. Nothing in this Act deprives the Supreme Court of jurisdiction in matters provided for by this Act. R.S.O. 1950, c. 180, s. 23. Jurisdiction of Supreme Court not affected

24. Nothing in this Act changes the law as to the authority of the father in respect of the religious faith in which his child is to be educated. R.S.O. 1950, c. 180, s. 24. Religious education of infant

CHAPTER 188

The Injured Animals Act

1. Where an inspector of an incorporated humane society or society for the prevention of cruelty to animals or a constable finds a horse so severely injured that it would in his opinion be cruel to allow the horse to live, he shall, if the owner refuses to consent to the destruction of the animal, or is absent, at once summon a veterinary surgeon, if a surgeon resides or can be found within a reasonable distance, or, if no surgeon can be obtained, then two reputable citizens, and, if it appears by the certificate of the surgeon or by a statement signed by the two citizens that the animal is, or appears to be, incapable of being so cured or healed as to live thereafter without suffering, it is lawful for the inspector or constable, without the consent of the owner, to kill or cause to be killed the animal with such instrument or instruments or appliances and with such precautions and in such a manner as to inflict as little pain and suffering as possible. R.S.O. 1950, c. 181, s. 1.

Duty of
constable or
inspector
where horse
is found
severely
injured

2. If a horse is abandoned or left to die in a street, road, commons or public place, it is the duty of an inspector or a constable as mentioned in section 1 to make a reasonable attempt to ascertain the owner of the animal and, if the owner cannot be found, or, if found, refuses to give his consent to the killing of the horse, the inspector or constable shall proceed in the manner set forth in section 1. R.S.O. 1950, c. 181, s. 2.

Where horse
is
abandoned

3. Where a large animal, such as a horse, cow, sheep or hog, is severely injured by a railway engine or train, the conductor of the train shall report the occurrence to the nearest station agent of the railway, who shall forthwith notify the owner, if possible, and the nearest constable, who shall proceed as provided by section 1. R.S.O. 1950, c. 181, s. 3.

Animals
injured by
railway
trains

CHAPTER 189

The Innkeepers Act

1. In this Act,

Interpre-
tation

- (a) "inn" includes an hotel, inn, tavern, public house or other place of refreshment, the keeper of which is by law responsible for the goods of his guests;
- (b) "innkeeper" means the keeper of any such place.
R.S.O. 1950, c. 182, s. 1, *amended*.

2.—(1) An innkeeper, boarding-house keeper or lodging-house keeper has a lien on the goods of his guest, boarder or lodger for the value or price of any food or accommodation furnished to him or on his account. Lien on goods for accommodation, etc.

(2) In addition to all other remedies provided by law, he has the right, in case the same remains unpaid for three months, to sell by public auction the goods of the guest, boarder or lodger, on giving one week's notice of the intended sale by advertisement in a newspaper published in the municipality in which the inn, boarding house, or lodging house is situate or, in case there is no newspaper published in the municipality, in a newspaper published nearest to the inn, boarding house or lodging house. Power to sell

(3) The advertisement shall state the name of the guest, boarder or lodger, the amount of his indebtedness, the time and place of sale, and the name of the auctioneer, and shall give a description of the goods to be sold. Particulars in notice

(4) The innkeeper, boarding-house keeper or lodging-house keeper may apply the proceeds of the sale in payment of the amount due to him and the costs of the advertising and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. R.S.O. 1950, c. 182, s. 2 (1-4), *amended*. Proceeds of sale, application

3.—(1) The keeper of a livery stable or a boarding stable has a lien on every horse or other animal boarded at or carriage left in his livery stable or boarding stable for his reasonable charges for boarding and caring for the horse, animal or carriage. Lien on horses and carriages

Lien on
horses, etc.,
and power
to sell

(2) Where an innkeeper, boarding-house keeper, lodging-house keeper, livery-stable keeper or boarding-stable keeper has a lien upon a horse, other animal or carriage for the value or price of any food or accommodation supplied, or for care or labour bestowed thereon, he has, in addition to all other remedies provided by law, the right, in case the same remains unpaid for two weeks, to sell by public auction the horse, animal or carriage on giving two weeks notice of the intended sale by advertisement in a newspaper published in the municipality in which the inn, boarding house, lodging house, livery stable or boarding stable is situate or, in case there is no newspaper published in the municipality, in a newspaper published nearest to the inn, boarding house, lodging house, livery stable or boarding stable.

Advertis-
ement of
intended
sale

(3) The advertisement shall state the name, if known, of the person or persons who brought the horse, animal or carriage to the inn, boarding house, lodging house, livery stable or boarding stable, the amount of the indebtedness, and the name of the auctioneer, and shall give a description of the horse, animal or carriage.

Proceeds of
sale, appli-
cation

(4) The innkeeper, boarding-house keeper, lodging-house keeper, livery-stable keeper or boarding-stable keeper may apply the proceeds of the sale in payment of the amount due to him, and the costs of the advertisement and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. R.S.O. 1950, c. 182, s. 2 (5-8).

Limitation
of inn-
keeper's
liability

4.—(1) No innkeeper is liable to make good to any guest of his any loss of or injury to goods brought to his inn, not being a horse or other live animal, or any gear appertaining thereto, or a carriage, to a greater amount than the sum of \$40 except,

except where
default or
neglect

(a) where the goods have been stolen, lost, or injured through the wilful act, default, or neglect of the innkeeper or a servant in his employ;

or unless de-
posited with
him for safe-
keeping

(b) where the goods have been deposited expressly for safe custody with the innkeeper.

Conditions
of liability

(2) In case of such deposit, it is lawful for the innkeeper, if he thinks fit, to require, as a condition of his liability, that the goods shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the goods. R.S.O. 1950, c. 182, s. 3, *amended*.

Conse-
quences of
failure to
take charge
of goods

5. If an innkeeper refuses to receive for safe custody, as mentioned in clause *b* of subsection 1 of section 4, any goods of his guest or if the guest, through any default of the inn-

keeper, is unable to deposit such goods, the innkeeper is not entitled to the benefit of this Act in respect thereof. R.S.O. 1950, c. 182, s. 4.

6. Every innkeeper shall cause to be kept conspicuously posted up in the office and public rooms and in every bedroom in his inn a copy of section 4 printed in plain type, and he is entitled to the benefit thereof in respect of such goods only as are brought to his inn while such copy is so posted up. R.S.O. 1950, c. 182, s. 5, *amended*. Copy of section 4 to be conspicuously exhibited

7.—(1) Subject to subsection 5, where the claim under the lien of an innkeeper, lodging-house keeper or boarding-house keeper upon the goods of his guest exceeds the amount due in respect of one week's board or lodging, the guest may, on payment or tender of that amount, obtain possession of the goods at any time before sale thereof whatever may be the amount due by the guest, unless a magistrate upon application to him otherwise orders. Limitation upon lien of innkeeper, etc.

(2) In case of a retention or seizure by an innkeeper, lodging-house keeper or boarding-house keeper, the guest or owner of the goods seized may apply to a magistrate who may in a summary manner make such order as to the custody of the goods as seems fair to him under the circumstances, notwithstanding the lien created by this Act or otherwise. R.S.O. 1950, c. 182, s. 6 (1, 2). Jurisdiction of magistrate

(3) Every person who contravenes subsection 1 or an order made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for not more than thirty days, or to both. R.S.O. 1950, c. 182, s. 6 (3), *amended*. Offence

(4) Notwithstanding any other provision of this Act, a magistrate acting under subsections 1 to 3 shall exercise his absolute discretion as to the disposal of any matter coming before him under such subsections. Discretion of magistrate

(5) Where possession of the goods of a guest is claimed by an innkeeper under his lien thereon, the guest or the owner of the goods is only entitled to obtain possession thereof under subsection 1 by an order of a magistrate upon application made by the guest or owner for such order and after notice of the application has been given in writing to the innkeeper in accordance with the directions of the magistrate. R.S.O. 1950, c. 182, s. 6 (4, 5). Application for recovery where goods held by innkeeper

CHAPTER 190

The Insurance Act

INTERPRETATION

1. In this Act, except where inconsistent with the interpretation sections of any Part, ^{Interpre-}
^{tation}

1. "accident insurance" means insurance by which the insurer undertakes, otherwise than incidentally to some other class of insurance defined by or under this Act, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;
2. "adjuster" means a person who,
 - i. on behalf of an insurer or an insured, for compensation, directly or indirectly solicits the right to negotiate the settlement of or investigate a loss or claim under a contract or a fidelity, surety or guaranty bond issued by an insurer, or investigates, adjusts or settles any such loss or claim, or
 - ii. holds himself out as an adjuster, investigator, consultant or adviser with respect to the settlement of such losses or claims,

but does not include,

- iii. a barrister or solicitor acting in the usual course of his profession;
- iv. a trustee or agent of the property insured,
- v. a salaried employee of a licensed insurer while acting on behalf of such insurer in the adjustment of losses,
- vi. a person who is employed as an appraiser, engineer or other expert solely for the purpose of giving expert advice or evidence, or
- vii. a person who acts as an adjuster of marine losses only;

3. "agent" means a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 15, 16, 17 or 18 of section 315, solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal;
4. "aircraft insurance" means insurance against loss of or damage to an aircraft and against liability for loss or damage to persons or property caused by an aircraft or by the operation thereof;
5. "appeal" includes a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by way of *certiorari* or otherwise;
6. "automobile" includes all self-propelled vehicles, their trailers, accessories and equipment, but not railway rolling stock, watercraft or aircraft of any kind;
7. "automobile insurance" means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, and against loss of or damage to an automobile;
8. "beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;
9. "boiler and machinery insurance" means insurance against loss or damage to property and against liability for loss or damage to persons or property through the explosion, collapse, rupture or breakdown of, or accident to, boilers or machinery of any kind;
10. "broker" means a person who, for compensation, not being a licensed agent or not being a person acting under the authority of subsection 15, 16, 17 or 18 of section 315, acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance or in negotiating the continuance or renewal of such contracts for a person other than himself;

11. "cash-mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, that is empowered to undertake insurance on both the cash plan and the mutual plan;
12. "chief agency" means the principal office or place of business in Ontario of any licensed insurer having its head office out of Ontario;
13. "contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;
14. "credit insurance" means insurance against loss to the insured through the insolvency or default of a person to whom credit is given in respect of goods, wares or merchandise;
15. "Department" means the Department of Insurance of Ontario;
16. "disability insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for the payment of insurance money or the granting of benefits in the event that the insured becomes disabled as a result of bodily injury or disease;
17. "double indemnity insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for payment only in the event of the death of the insured by accident of an additional amount of insurance money not exceeding the amount payable in the event of death from other causes;
18. "due application" includes such information, evidence and material as the Superintendent requires to be furnished, and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Act;
19. "employers' liability insurance" means insurance (not being insurance incidental to some other class of

insurance defined by or under this Act) against loss to an employer through liability for accidental injury to or death of an employee arising out of or in the course of his employment, but does not include workmen's compensation insurance;

20. "endowment insurance", as applied to a fraternal society, means an undertaking to pay an ascertained or ascertainable sum at a fixed future date, if the person whose life is insured is then alive, or at his death, if he dies before such date;
21. "exchange" or "reciprocal or inter-insurance exchange" means a group of subscribers exchanging reciprocal contracts of indemnity or inter-insurance with each other through the same attorney;
22. "foreign jurisdiction" means a jurisdiction other than Ontario;
23. "fire insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to property through fire, lightning or explosion due to ignition;
24. "fraternal society" means a society, order or association incorporated for the purpose of making with its members only and not for profit, contracts of life, accident or sickness insurance under which benefits may be paid only to its members or their beneficiaries in accordance with its constitution and laws and this Act;
25. "governing executive authority" means the executive committee, executive board, management committee, grand executive committee or such other board, committee or body as is charged under the constitution and rules of a fraternal society with its general management between general meetings; R.S.O. 1950, c. 183, s. 1, pars. 1-25.
26. "guarantee insurance" means the undertaking to perform an agreement or contract or to discharge a trust, duty or obligation upon default of the person liable for such performance or discharge or to pay money upon such default or in lieu of such performance or discharge, or where there is loss or damage through such default, but does not include credit insurance; R.S.O. 1950, c. 183, s. 1, par. 26; 1957, c. 51, s. 1 (1).

27. "hail insurance" means insurance against loss of or damage to growing crops caused by hail;
28. "head office" means the place where the chief executive officer of an insurer transacts his business;
29. "industrial contract" means a contract of life insurance for an amount not exceeding \$2,000, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and that provides for payment of premiums at fortnightly or shorter intervals, or, if the premiums are usually collected at the home of the insured, at monthly intervals;
30. "inland transportation insurance" means insurance (other than marine insurance) against loss of or damage to property,
 - i. while in transit or during delay incidental to transit, or
 - ii. where, in the opinion of the Superintendent, the risk is substantially a transit risk;
31. "insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;
32. "insurance fund" or "insurance funds", as applied to a fraternal society or as applied to a corporation not incorporated exclusively for the transaction of insurance, includes all money, securities for money and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but does not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage earners unemployed or upon strike;
33. "insurance money" means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses, and annuities payable under the contract;
34. "insurance on the cash plan" means any insurance that is not mutual insurance;
35. "insurer" means the person who undertakes or agrees or offers to undertake a contract;

36. "life insurance" means insurance whereby the insurer undertakes to pay insurance money on death, or on the happening of any contingency dependent on human life, or whereby the insurer undertakes to pay insurance money subject to the payment of premiums for a term depending on human life, but, except to the extent of double indemnity insurance, does not include insurance payable in the event of death by accident only;
37. "live stock insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss through the death or sickness of or accident to an animal;
38. "lodge" includes a primary subordinate division, by whatever name known, of a fraternal society;
39. "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air that are incidental to a sea voyage;
40. "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of this Act;
41. "mutual benefit society" means a mutual corporation formed for the purpose of providing sick and funeral benefits for its members, or for these and any other purposes necessary or incidental thereto except life insurance, but does not include a pension fund or employees' mutual benefit society incorporated under or subject to *The Corporations Act*;
42. "mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, that is empowered to undertake mutual insurance exclusively;
43. "mutual insurance" means a contract of insurance in which the consideration is not fixed or certain at the time the contract is made and is to be determined at the termination of the contract or at fixed periods during the term of the contract according to the experience of the insurer in respect of all similar contracts, whether or not the maximum amount of such consideration is predetermined;

44. "officer" includes a trustee, director, manager, treasurer, secretary or member of the board or committee of management of an insurer and a person appointed by the insurer to sue and be sued in its behalf;
45. "paid in", when applied to the capital stock of an insurer or to any shares thereof, means the amount paid to the insurer on its shares, not including the premium, if any, paid thereon, whether such shares are or are not fully paid;
46. "paid up", when applied to the capital stock of an insurer or to any shares thereof, means the capital stock or shares on which there remains no liability, actual or contingent, to the issuing insurer;
47. "pension fund association" means a company, corporation or association incorporated before the year 1910, under or by virtue of any law of the Province of Quebec, for the purpose of providing a pension for those persons who have contributed to a fund therefor during a certain number of years, and includes any auxiliary funds incorporated for the purpose of guaranteeing the repayment of any sum to those who contributed to such pension fund during a certain number of years, or for the purpose of assuring a life pension to those contributing a sum of money to such pension fund, or for these and similar purposes;
48. "plate glass insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to plate, sheet or window glass, whether in place or in transit;
49. "policy" means the instrument evidencing a contract;
50. "premium" means the single or periodical payment under a contract for the insurance, and includes dues, assessments and other considerations;
51. "premium note" means an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, but the aggregate of which sums does not exceed an amount specified in the instrument;
52. "property" includes profits, earnings and other pecuniary interests, and expenditure for rents, interest, taxes and other outgoings and charges and in respect of inability to occupy the insured premises,

but only to the extent of express provision in the contract;

53. "property damage insurance" means insurance against loss of or damage to property that is not included in or incidental to some other class of insurance defined by or under this Act;
54. "public liability insurance" means insurance against loss or damage to the person or property of others that is not included in or incidental to some other class of insurance defined by or under this Act;
55. "regulations" means the regulations made under this Act; R.S.O. 1950, c. 183, s. 1, pars. 27-55.
56. "salesman" means a person who is employed by a licensed insurance agent or broker on a stated salary that is not supplemented by commission, bonus or any other remuneration to solicit insurance or transact, for a person other than himself, an application for a policy of insurance, or to act in the negotiation of such insurance or in negotiating its continuance or renewal, or collects and receives premiums on behalf of his employer only, but does not include a licensed insurance agent, broker or employee engaged solely in office duties for an agent or broker or a person acting under the authority of subsection 15, 16 or 17 of section 315; 1951, c. 39, s. 1.
57. "sick and funeral benefits" includes insurance against sickness, disability or death under which the moneys payable upon the happening of sickness, disability or death do not exceed the limits prescribed by section 294;
58. "sickness insurance" means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance;
59. "sprinkler leakage insurance" means insurance against loss of or damage to property through the breakage or leakage of sprinkler equipment or other fire protection system, or of pumps, water pipes or plumbing and its fixtures;
60. "Superintendent" means the Superintendent of Insurance, and includes the Deputy Superintendent of Insurance;
61. "theft insurance" means insurance against loss or damage through theft, wrongful conversion, burglary,

house-breaking, robbery or forgery; R.S.O. 1950, c. 183, s. 1, pars. 56-60.

62. "title insurance" means insurance against loss or liability for loss due to the invalidity of the title to any property or of any instrument, or to any defect in such title or instrument; 1957, c. 51, s. 1 (2).
63. "upon proof", as applied to any matter connected with the licensing of an insurer or other person, means upon proof to the satisfaction of the Superintendent;
64. "weather insurance" means insurance against loss or damage through windstorm, cyclone, tornado, rain, hail, flood or frost, but does not include hail insurance;
65. "workmen's compensation insurance" means insurance of an employer against the cost of compensation prescribed by statute for bodily injury, disability or death of a workman through accident or disease arising out of or in the course of his employment. R.S.O. 1950, c. 183, s. 1, pars. 61-63.

PART I

SUPERINTENDENT AND HIS DUTIES

2. The Department of Insurance shall be presided over by the Minister. R.S.O. 1950, c. 183, s. 2. Department of Insurance

3.—(1) The Superintendent of Insurance shall be appointed by the Lieutenant Governor in Council and is the deputy head of the Department. Appointment of Superintendent

(2) The Superintendent has general supervision of the business of insurance in Ontario and he shall see that the laws relating to the conduct thereof are enforced and obeyed and shall examine and report to the Minister from time to time upon all matters connected with insurance. His duties, report to Minister

(3) The Lieutenant Governor in Council may appoint a Deputy Superintendent of Insurance who shall act as superintendent during the absence or inability of the Superintendent and shall perform such other duties as are assigned to him by this Act, by the Lieutenant Governor in Council, by the Minister or by the Superintendent. R.S.O. 1950, c. 183, s. 3. Deputy Superintendent

4. For the purposes of his duties and in the exercise of his powers under this Act or under any other Act relating to Evidence

insurance, the Superintendent may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath, and he has the same power to summon persons to attend as witnesses, and to enforce their attendance, and to compel them to produce books, documents and things, and to give evidence as any court has in civil cases. R.S.O. 1950, c. 183, s. 4.

Oaths

5. An oath required by this Act to be taken may be administered and certified to by the Superintendent or by any person authorized to administer oaths in Ontario. R.S.O. 1950, c. 183, s. 5.

Independence of Superintendent and officers

6. Neither the Superintendent nor any officer under him shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in Ontario. R.S.O. 1950, c. 183, s. 6.

Actions against Superintendent

7.—(1) Without a fiat of the Attorney General, no action or proceeding shall be brought or taken against the Superintendent for anything done or omitted in the performance or intended or supposed performance of his duty under this Act, or under any other Act that imposes duties upon him.

Superintendent may bring actions, etc.

(2) The Superintendent may bring actions and institute proceedings in his name of office for the enforcement of any of the provisions of this Act or for the recovery of fees and penalties payable under this Act.

Leave

(3) No action or proceeding for the recovery of fees and penalties payable under this Act shall be commenced without the leave of the Superintendent. R.S.O. 1950, c. 183, s. 7.

Records of Superintendent

8.—(1) The Superintendent shall keep in the Department the following books and records:

1. A register of all licences issued under this Act, in which shall appear the name of the insurer, the address of the head office, the address of the principal office in Canada, the name and address of the chief or general agent in Ontario, the number of the licence issued, particulars of the classes of insurance for which the insurer is licensed, and such other information as the Superintendent deems necessary.
2. A record of all securities deposited by each insurer with the Minister, naming in detail the several securities, their par value, their date of maturity and value at which they are received as deposit.
3. A record of all claims of which notice of dispute has been filed under this Act.

(2) The books and records required by this section to be kept in the Department shall be open to inspection at such times and upon payment of such fees as are prescribed by the regulations. R.S.O. 1950, c. 183, s. 8. Inspection

9.—(1) The Superintendent shall cause to be published in *The Ontario Gazette* in July of each year a list of the insurers licensed at the date of the list, and shall from time to time cause notice of the licence of an insurer not theretofore licensed and notice of suspension or cancellation or revivor of licence to be given by publication in *The Ontario Gazette*. Annual publication in *Ontario Gazette*, notice of licence

(2) A certificate under the hand and seal of office of the Superintendent that on a stated day an insurer mentioned therein was or was not licensed under this Act, or that any insurer was originally admitted to licence, or that the licence of any insurer was renewed, suspended, revived, revoked or cancelled on a stated day, is admissible in evidence as *prima facie* proof of the facts stated in the certificate. Certificate of Superintendent is evidence of licence, etc.

(3) A certificate of the filing of any document required by this Act or any predecessor thereof to be filed in the office of the Provincial Registrar or of the Superintendent is admissible in evidence as *prima facie* proof of the filing if signed or purporting to be signed by the Deputy or Assistant or by the acting Deputy or Assistant Provincial Registrar or by the Superintendent, as the case may be. R.S.O. 1950, c. 183, s. 9. Evidence, filing of documents

10. The duty of determining the right of any insurer in Ontario to be licensed under this Act devolves upon the Superintendent, subject to appeal as hereinafter provided, but nothing in this section affects the right of the Lieutenant Governor in Council or of the Minister to suspend or cancel any licence in the exercise of his authority under this Act. R.S.O. 1950, c. 183, s. 10. Superintendent to determine right of insurer to be licensed

11.—(1) Every decision of the Superintendent upon an application for a licence shall be in writing and notice thereof shall be forthwith given to the insurer. Decision of Superintendent

(2) The insurer, or any person interested, is entitled, upon payment of the prescribed fee, to a certified copy of the decision. Certified copy

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer sworn before the Superintendent to faithfully report the same. R.S.O. 1950, c. 183, s. 11. Stenographic report

12.—(1) An applicant for a licence under this Act or any person who deems himself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal. Appeal

When to be
set down

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of.

Procedure

(3) The practise and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

Certificate

(4) The Superintendent shall certify to the registrar of the Court of Appeal the decision appealed from, his reasons therefor, and the documents, inspection reports and evidence, if any, and such other information as he had before him in making his decision. R.S.O. 1950, c. 183, s. 12.

Conse-
quences of
failure to
answer
inquiries

13. The Superintendent may direct to an insurer any inquiry touching the contracts or financial affairs of the insurer, and the insurer shall make prompt and explicit answer to any such inquiry, and, in case of refusal or neglect to answer, is guilty of an offence. R.S.O. 1950, c. 183, s. 13.

Access to
books

14. The Superintendent, or any person authorized under his hand or seal of office, shall, at all reasonable times, have access to all the books, securities and documents of an insurer, agent or broker that relate to contracts of insurance, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence. R.S.O. 1950, c. 183, s. 14.

Duty to
furnish
information
on request

15.—(1) It is the duty of the officers and agents of a licensed insurer, and of persons licensed under this Act, or of any insured, to furnish the Superintendent on his request with full information relating to any contract of insurance issued by the insurer or to the insured that comes within the terms of sections 90 and 140 or relative to any settlement or adjustment under any such contract.

Inspection

(2) The Minister may, in his discretion, instruct the Superintendent to visit the head office or chief agency from which the contract was issued, or the office of the adjuster, and inquire into such contract or settlement, and section 14 applies *mutatis mutandis* to such inquiry. R.S.O. 1950, c. 183, s. 15.

Annual
inspection
of insurers

16.—(1) The Superintendent shall visit personally, or cause a duly qualified member of his staff to visit, at least annually, the head office or chief office in Ontario of every licensed insurer, other than a mutual benefit society having fewer than 300 members and an insurer as to which he adopts the inspection of some other government, and he shall examine the statements of the condition and affairs of each such

insurer filed under this Act, and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its contracts as they mature and whether or not it has complied with all the provisions of this Act applicable to its transactions, and the Superintendent shall report thereon to the Minister as to all matters requiring his attention and decision.

(2) Where the head office of such an insurer is not in Ontario and the Superintendent deems it necessary and expedient to make a further examination into its affairs and so reports to the Minister, the Minister may, in his discretion, instruct the Superintendent to visit the head office of such insurer to inspect and examine its affairs and to make such further inquiries as the Minister requires.

Examination of affairs of insurer

(3) The officers and agents of such insurer shall cause the books and records of the insurer to be opened for the inspection of the Superintendent and shall otherwise facilitate such examination so far as it is in their power.

Duty of officers and agents

(4) In order to facilitate the inspection of the books and records of an insurer, the insurer may be required by the Superintendent with the approval of the Minister, to produce the books and records at the head office or chief office in Ontario of the insurer or at such other convenient place as the Superintendent directs, and the officer or officers of the insurer who have custody of the books and records are entitled to be paid by the insurer for the actual expenses of such attendance.

Production of books at head office or as Superintendent directs

(5) The Superintendent, with the approval of the Minister, may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets or liabilities of any such insurer and the cost thereof upon the certificate of the Superintendent approved by the Minister shall be paid by the insurer.

Examination of affairs of an insurer

(6) Where the office of an insurer at which an examination is made under this section is out of Ontario, the insurer shall pay the account of the Department in connection with such examination upon the certificate of the Superintendent approved by the Minister. R.S.O. 1950, c. 183, s. 16.

Expenses of examination

17.—(1) Where the head office of a licensed insurer is situate out of Ontario, notice or process in any action or proceeding in Ontario may be served upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

Service of notice or process on Superintendent

(2) Every licensed insurer shall file in the office of the Superintendent notice of a post office address to which any

Insurer to file address

such notice or process may be forwarded by the Superintendent and shall from time to time notify the Superintendent of any change in the address so filed.

Superintendent to forward notice or process

(3) The Superintendent shall forthwith after the receipt of any such notice or process forward it to the insurer by registered mail addressed in the manner last notified to him for this purpose by the insurer. R.S.O. 1950, c. 183, s. 17.

Annual report

18.—(1) The Superintendent shall prepare for the Minister, from the statements filed by the insurers and from any inspection or inquiries made, an annual report, showing particulars of the business of each insurer as ascertained from such statement, inspection and inquiries, and such report shall be printed and published forthwith after completion.

Permissible investments

R.S.O. 1960, c. 71

(2) In his annual report the Superintendent shall allow as assets only such of the investments of the several insurers as are authorized by *The Corporations Act*, or by their Acts or instruments of incorporation, or by the general Acts applicable to such investments.

Superintendent's corrections of annual statements

(3) In his annual report the Superintendent shall make all necessary corrections in the annual statements made by all licensed insurers as provided in this Act, and he is at liberty to increase or diminish the liabilities of such insurers to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof in Ontario, or otherwise.

Appraisal of real estate owned by insurer

(4) If it appears to the Superintendent, or if he has any reason to suppose, from the annual statements prepared and delivered to him by all insurers that the value placed by any insurer, incorporated and licensed in Ontario, upon the real estate owned by it or any parcel thereof is too great, he may either require such insurer to secure an appraisal of such real estate by one or more competent valuers, or may himself procure such appraisal at the expense of the insurer, and the appraised value, if it varies materially from the statement or return made by the insurer, may be substituted in the annual report of the Superintendent.

Appraisal of real estate held as security for loans

(5) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the amount secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, he may procure an appraisal thereof and, if from the appraised value it appears that the parcel is not adequate security for the loan and interest, he may write off the loan and interest a sum sufficient to reduce the loan to

such an amount as may fairly be realizable from the security, in no case to exceed the appraised value, and he may insert the reduced amount in his annual report.

(6) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the value of any other investment of the funds of the insurer is less than the amount of the value of the investments shown in the books of the insurer, he may make or cause to be made an appraisal of the security, and, if from the appraised value it appears that the value of the security as shown on the books of the insurer is greater than its true value as shown by the appraisal, he may reduce the book value of the security to such amount as may fairly be realizable from the security, in no case to exceed the appraised value, and he may insert the reduced amount in his annual report. R.S.O. 1950, c. 183, s. 18.

Appraisal
of
other
investments

19. Upon request by the Minister, the Superintendent shall prepare for the consideration of the Lieutenant Governor in Council a report upon the petition of an insurer, praying to have its bonds authorized by order in council for acceptance in lieu of personal or private suretyship pursuant to any Act of Ontario wherein or whereby the Lieutenant Governor in Council is empowered to authorize the giving or acceptance of securities or of the personal bonds of sureties, and in such report the Superintendent shall set out all material facts relating to the age, paid-up capital, surplus of assets over liabilities, underwriting experience and generally such other information relating to the financial condition and standing of the insurer as, in his opinion, should govern the granting or refusal of the petition. R.S.O. 1950, c. 183, s. 19.

Superintendent
to report on
petition for
authorization of court
bonds

PART II

GENERAL PROVISIONS APPLICABLE TO INSURERS

20.—(1) This Part applies to insurance undertaken in Ontario and to all insurers carrying on business in Ontario.

Application
of Part

(2) An insurer undertaking a contract of insurance that under this Act is deemed to be made in Ontario, whether the contract is original or renewed, except the renewal from time to time of life insurance policies, shall be deemed to be undertaking insurance in Ontario within the meaning of this Part.

Undertaking
insurance

(3) An insurer undertaking insurance in Ontario or that in Ontario sets up or causes to be set up a sign containing the

Carrying on
business

name of an insurer, or that in Ontario maintains or operates, either in its own name or in the name of its agent or other representative, an office for the transaction of the business of insurance either in or out of Ontario, or that in Ontario distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document, or that in Ontario makes or causes to be made any written or oral solicitation for insurance, or that in Ontario issues or delivers any policy of insurance or interim receipt or collects or receives or negotiates for or causes to be collected or received or negotiated for any premium for a contract of insurance or inspects any risk or adjusts any loss under a contract of insurance, or that prosecutes or maintains in Ontario an action or proceeding in respect of a contract of insurance, or a club, society or association incorporated or unincorporated that receives, either as trustees or otherwise, contributions or moneys from its members out of which gratuities or benefits are paid directly or indirectly upon the death of its members, or any of them, shall be deemed to be an insurer carrying on business in Ontario within the meaning of this Act. R.S.O. 1950, c. 183, s. 20.

LICENCES

Necessity for licence

21.—(1) Every insurer undertaking insurance in Ontario or carrying on business in Ontario shall obtain from the Minister and hold a licence under this Act.

Prohibition

(2) Every insurer undertaking insurance or carrying on business in Ontario without having obtained a licence as required by this section is guilty of an offence.

Prohibition against per- son acting on behalf of unlicensed insurer

(3) A person who in Ontario does or causes to be done any act or thing mentioned in subsection 3 of section 20 on behalf of or as agent of an insurer not licensed under this Act or who receives directly or indirectly any remuneration for so doing is guilty of an offence.

Exception

(4) The following shall not be deemed insurers within the meaning of this Act or required or entitled to be licensed as such:

R.S.O. 1960, c. 71

1. Pension fund societies or employees' mutual benefit societies incorporated under *The Corporations Act*.
2. Corporations mentioned in paragraphs 3 and 4 of section 265.
3. A trade union in Ontario that under the authority of its incorporating Act or charter has an assurance

or benefit fund for the benefit of its own members exclusively.

4. Mutual benefit societies whose memberships are confined to railway employees and that do not grant mortuary or funeral benefits.

(5) An insurer incorporated and licensed by Ontario that carries on or solicits business in any foreign jurisdiction without being first authorized so to do under the laws of the foreign jurisdiction is guilty of an offence. R.S.O. 1950, c. 183, s. 21. Unauthorized insurance

22. Nothing in this Act prevents a licensed insurer that has lawfully effected a contract of insurance in Ontario from reinsuring the risk or part thereof with an insurer transacting business out of Ontario and not licensed under this Act. R.S.O. 1950, c. 183, s. 22. Reinsurance with unlicensed insurer

23.—(1) Upon due application and upon proof of compliance with this Act, the Minister may issue a licence to undertake contracts of insurance and carry on business in Ontario to any insurer coming within one of the following classes: What insurers may be licensed

1. Joint stock insurance companies.
2. Mutual insurance corporations.
3. Cash-mutual insurance corporations.
4. Fraternal societies.
5. Mutual benefit societies.
6. Companies duly incorporated to undertake insurance contracts and not within classes 1 to 5.
7. Reciprocal or inter-insurance exchanges.
8. Underwriters or syndicates of underwriters operating on the plan known as Lloyds.
9. Pension fund associations.

(2) A licence issued under this Act authorizes the insurer named therein to exercise in Ontario all rights and powers reasonably incidental to the carrying on of the business of insurance named therein that are not inconsistent with this Act or with its Act or instrument of incorporation or organization. R.S.O. 1950, c. 183, s. 23. Effect of licence

24.—(1) The Lieutenant Governor in Council may make regulations determining and defining classes of insurance for the purposes of this Act and of licences granted to insurers under this Act. Classes of insurance

Licence to
carry on
insurance
business

(2) Subject to the provisions of the Parts of this Act that particularly relate to the classes of insurers mentioned in section 23, a licence may be granted to an insurer to carry on any one or more of the classes of insurance defined in section 1 and such other classes as are prescribed by the regulations.

Determina-
tion of
classes of
insurance
by Super-
intendent

(3) For the purposes of this Act, the Superintendent may determine the class or classes of insurance into which the circumstances or conditions in any case may bring any insurance granted or that may be granted in respect thereto, and the policy form for the class of insurance to be used thereunder.

Limited or
conditional
licence

(4) Any licence may be issued subject to such limitations and conditions as the Minister prescribes. R.S.O. 1950, c. 183, s. 24.

Require-
ments where
automobile
policy issued
outside
Ontario

25. It shall be a condition of a licence to carry on automobile insurance in Ontario, for breach of which such licence may be cancelled, that, in any action or proceeding in Ontario against a licensed insurer, or its insured, arising out of a motor vehicle accident in Ontario, such insurer shall appear and shall not set up any defence to a claim under a policy issued out of Ontario that might not be set up if such policy were issued in Ontario in accordance with the law of Ontario relating to motor vehicle liability policies. R.S.O. 1950, c. 183, s. 25.

Scope of life
insurance
licence

26. Every insurer licensed for the transaction of life insurance may, under the authority of its licence, unless the licence expressly provides otherwise, issue annuities and endowments of all kinds and also include in any policy of life insurance, in respect of the same life or lives insured thereby, disability insurance and double indemnity insurance. R.S.O. 1950, c. 183, s. 26.

Scope of
insurance
licence

27.—(1) Every insurer licensed to carry on fire insurance may, subject to its Act of incorporation and subject to the restrictions prescribed by the licence, insure or reinsure any property in which the insured has an insurable interest against loss or damage by fire, lightning or explosion and may insure or reinsure the same property against loss or damage from falling aircraft, earthquake, windstorm, tornado, hail, sprinkler leakage, riot, malicious damage, weather, water damage, smoke damage, civil commotion and impact by vehicles and any one or more perils falling within such other classes of insurance as are prescribed by the regulations.

Insurance of
automobiles

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV of this Act, but, in the case of a purely

mutual fire insurance corporation, incorporated or licensed in Ontario and carrying on business on the premium note plan, the automobile shall be specifically insured under a policy separate from that insuring other property. 1956, c. 32, s. 1.

28. Every insurer licensed for the transaction of automobile insurance may, under the authority of its licence, unless the licence expressly provides otherwise, provide the restricted accident insurance authorized under section 220. 1951, c. 39, s. 2.

Scope of
automobile
insurance
licence

29.—(1) A licence shall not be granted,

Restrictions
on granting
licences

(a) to a joint stock insurance company undertaking life insurance, unless the company furnishes to the Superintendent satisfactory evidence that of the capital stock not less than \$200,000 has been *bona fide* subscribed for and allotted, and at least \$100,000 of the subscribed stock has been paid in, in cash;

(b) to a joint stock insurance company undertaking any one or more classes of insurance other than life, except upon proof,

(i) where the company is undertaking insurance in Ontario only, that of the capital stock not less than \$50,000 has been *bona fide* subscribed and allotted, and at least \$25,000 of the subscribed stock has been paid in, in cash, and

(ii) where the company is undertaking insurance in Ontario and elsewhere, that of the capital stock not less than \$100,000 has been *bona fide* subscribed and allotted, and at least \$50,000 of the subscribed stock has been paid in, in cash.

(2) A licence shall not be granted to a mutual insurance corporation, a cash-mutual insurance corporation, an insurance company mentioned in paragraph 6 of subsection 1 of section 23, a reciprocal or inter-insurance exchange, or to an underwriter or syndicate of underwriters operating on the plan known as Lloyds, except upon proof that the net surplus of assets over all liabilities exceeds the amount fixed by subsection 1 for the paid in capital stock of joint stock insurance companies, and that such net surplus of assets over all liabilities together with the contingent liability of members, if any, exceeds the amount fixed by subsection 1 for the subscribed and allotted capital stock of joint stock insurance companies for the respective classes of insurance mentioned therein.

Idem

(3) Subsection 2 does not apply to a purely mutual insurance corporation incorporated under the law of Ontario and insuring only risks other than mercantile and manufacturing on the premium note plan.

Application
of sub-
section 2

Application
of other
Parts

(4) A licence shall not be granted to an insurer except upon proof that it has complied with the provisions of this Act and the regulations applicable to it.

Licence for
both fire
and life

(5) A licence shall not be granted to an insurer for the transaction of both fire and life insurance unless it maintains separate and distinct accounts, funds and securities in respect of its business of life insurance, and those funds and securities are available only for the protection of the holders of its policies of life insurance and are not liable for the payment of claims arising from any other class of insurance that it undertakes, and it complies with such other requirements as the Superintendent imposes for the purposes of this subsection.

Evidence
by insurer
when head
office is
outside
Ontario

(6) Where the head office of an applicant for a licence under this Act is situate out of Ontario, a licence shall not be granted except upon proof of its ability to provide for the payment at maturity of all its contracts, but the Superintendent may accept as sufficient the fact that it is licensed by any other government in Canada.

Licence of
extra-
provincial
corporation

(7) A licence shall not be granted to a corporation that is incorporated under the law of a province other than Ontario unless its head office and chief place of business is situate in that province. R.S.O. 1950, c. 183, s. 28.

Information
preliminary
to licence

30. The Superintendent may require such notice of the application for a licence to be given by publication in *The Ontario Gazette* and elsewhere as he deems necessary. R.S.O. 1950, c. 183, s. 29.

Documents
to be filed by
applicants
for licence

31.—(1) Before the issue of a licence to an insurer, such insurer shall file in the office of the Superintendent the following documents:

1. A certified copy of its Act or other instrument of incorporation or association and of its constitution and by-laws and regulations verified in a manner satisfactory to the Superintendent.
2. A certified copy of its last balance sheet and auditor's report thereon.
3. If the head office of the insurer is out of Ontario, notice of the place where the chief office of the insurer in Ontario is to be situate.
4. Copies of all policy forms and forms of application for insurance proposed to be used by the insurer in Ontario.
5. Any evidence or documents required by other Parts of this Act.

(2) The applicant for a licence shall furnish such evidence as the Superintendent deems necessary that the requirements of this Act have been complied with and that the applicant is entitled to the licence applied for. R.S.O. 1950, c. 183, s. 30. Evidence

32.—(1) Upon application being made for a licence under this Act by an insurer incorporated after the 1st day of January, 1925 under any general or special Act of Ontario, there shall be submitted to the Superintendent a sworn statement setting forth the several sums of money paid in connection with the incorporation and organization of the insurer, and such statement shall, in addition, include a list of all unpaid liabilities, if any, in connection with or arising out of the incorporation and organization. Statement of expenses of organization

(2) Until the licence is granted, no payments on account of expenses of incorporation and organization shall be made out of the moneys paid in by shareholders, except reasonable sums for the payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expense of travel, if any. To what limited

(3) The Minister shall not issue the licence until he is satisfied that all the requirements of this Act and of *The Corporations Act*, as to the subscriptions to the capital stock, the payment of money by shareholders on account of their subscriptions, the election of directors and other preliminaries have been complied with, and unless he is satisfied that the expenses of incorporation and organization, including the commission payable for the sale of the stock of the insurer, are reasonable. R.S.O. 1950, c. 183, s. 31. Conditions precedent to issue of licence
R.S.O. 1960, c. 71

33. An insurer that has applied for a licence and has complied with this Act and *The Corporations Act* is entitled to the licence. R.S.O. 1950, c. 183, s. 32. Right to licence

34.—(1) Subject to section 304, the licence shall be in such form or forms for the different classes of insurers as are from time to time determined by the Minister, and shall specify the business to be carried on by the insurer. Form of licence

(2) The licence expires on the 30th day of June in each year, and may be renewed from year to year or for any term less than a year. R.S.O. 1950, c. 183, s. 33. Term of licence

35.—(1) Where written notice has been served on the Superintendent and upon proof of an undisputed claim arising from loss insured against in Ontario remaining unpaid for the space of sixty days after being due or of a disputed claim after final judgment in the regular course of law and tender of a legal, valid discharge being unpaid, the licence of the insurer is *ipso facto* void and shall be deemed to be cancelled. Failure to pay undisputed claim

Revival of
licence

(2) The licence may be revived and the insurer may again transact business if, within six months after notice to the Superintendent of the failure of the insurer to pay an undisputed claim or the amount of a final judgment as provided in this section, such undisputed claim or final judgment upon or against the insurer in Ontario is paid and satisfied. R.S.O. 1950, c. 183, s. 35.

Failure to
keep deposit
unimpaired

36. When the insurer fails to keep unimpaired the deposit, if any, hereinafter required, the Minister may suspend or cancel the licence of the insurer. R.S.O. 1950, c. 183, s. 36.

Insufficiency
of assets to
be reported
by Super-
intendent

37.—(1) If the Superintendent, upon examination, or from annual statements, or upon other evidence, finds that the assets of an insurer are insufficient to justify its continuance in business or to provide proper security to persons effecting insurance with it in Ontario or that it has failed to comply with any provision of law or with its Act or instrument of incorporation or association, he shall so report to the Minister. R.S.O. 1950, c. 183, s. 37 (1).

Suspension
or cancel-
lation

(2) If the Minister, after consideration of the report and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry and investigation as he thinks proper to make, reports to the Lieutenant Governor in Council that he concurs in the report of the Superintendent, the Lieutenant Governor in Council may suspend or cancel the licence of the insurer.

Notice

(3) Notice of such suspension or cancellation shall be published in *The Ontario Gazette* and elsewhere as the Minister directs and thereafter any person transacting business on behalf of the insurer except for winding-up purposes is guilty of an offence.

Limited or
conditional
licence

(4) Where the Superintendent has reported as provided in subsection 1, the Minister or the Lieutenant Governor in Council may direct the issue of such modified, limited or conditional licence as is deemed necessary for the protection of persons in Ontario who have effected or effect contracts of insurance with the insurer.

Application
to licensees
of any
government
in Canada

(5) Upon the suspension or cancellation of the licence of an insurer by any government in Canada, the Superintendent may suspend or cancel the licence of such insurer under this Act. R.S.O. 1950, c. 183, s. 37 (3-6).

Revival of
licence

38. Where the licence of an insurer is suspended or cancelled under this Act, it may be revived if the insurer makes good the deposit, or the deficiency, as the case may be, to the satisfaction of the Minister. R.S.O. 1950, c. 183, s. 38.

39. It is the duty of the Superintendent to report to the Minister any contravention of this Act by any insurer licensed thereunder, and thereupon the Minister may, in his discretion, suspend or cancel or refuse to renew the insurer's licence. R.S.O. 1950, c. 183, s. 39.

Report on
contraven-
tion of Act

DEPOSITS

40.—(1) Subject to subsections 2, 3 and 4, "insurer" in sections 41 to 73 shall be deemed to include only joint stock insurance companies, cash-mutual insurance corporations, insurance companies mentioned in paragraph 6 of subsection 1 of section 23, insurers that undertake life insurance except fraternal societies, and underwriters or syndicates of underwriters operating on the plan known as Lloyds. R.S.O. 1950, c. 183, s. 40 (1).

Meaning of
"insurer" in
sections
41 to 73

(2) Sections 41 to 45 do not apply to an insurer maintaining a reciprocal deposit with the government of another province under sections 68 to 73 or expressly exempted by order of the Lieutenant Governor in Council. R.S.O. 1950, c. 183, s. 40 (2); 1951, c. 39, s. 4.

Application
to Canada
registrants

(3) Sections 41 to 73 do not apply to an insurer in respect of its business of marine insurance.

Application
of ss. 41
to 73

(4) Sections 41 to 73 do not apply to an underwriter or syndicate of underwriters that is a member of the society known as Lloyds, incorporated by the Imperial Statute, *Lloyds Act, 1871*.

Application
to Lloyds

(5) In sections 41 to 73, "approved securities" means securities of or guaranteed by Canada or by any province of Canada, securities of an incorporated municipality of Canada, and such other securities as are authorized for the investment of trust funds under the law of the province in which they are offered for deposit and approved by the superintendent of insurance of the provinces of Canada in which the insurer is carrying on business. R.S.O. 1950, c. 183, s. 40 (3-5).

Interpre-
tation

41.—(1) Every insurer carrying on the business of insurance in Ontario shall, before receiving a licence under this Act, deposit approved securities with the Minister in the following amounts:

Amount of
deposit

1. Where the insurer undertakes life insurance—\$50,000.
2. Where the insurer undertakes any one or more classes of insurance other than life,
 - i. in Ontario only—\$25,000.
 - ii. in Ontario and elsewhere—\$50,000. R.S.O. 1950, c. 183, s. 41 (1).

Increase
in amount
of deposit

(2) The Superintendent may require the deposit referred to in subsection 1 to be increased, either before or after granting the licence, to such amount as he considers necessary. 1957, c. 51, s. 2 (1).

Excess
deposit

(3) An insurer may voluntarily make a deposit in excess of the amount prescribed by this section, but no part of a voluntary deposit shall be withdrawn without the sanction of the Minister. R.S.O. 1950, c. 183, s. 41 (2); 1957, c. 51, s. 2 (2).

Value at
which securi-
ties received

42.—(1) The value of such securities shall be estimated at their market value, not exceeding par, at the time they are deposited.

Other
securities

(2) If any other than approved securities are offered as a deposit, the Minister may accept them on such valuation and on such conditions as he deems proper.

Further
deposit if
below mar-
ket value

(3) If the market value of any securities that have been deposited by an insurer declines below that at which they were deposited, the Minister may notify the insurer to make such further deposit as will ensure the accepted value of all the securities deposited by the insurer being equal to the amount that is required by this Act to be deposited.

Failure
to make
further
deposit

(4) On failure by the insurer to make such further deposit within sixty days after being called upon so to do, the Minister may suspend or cancel the licence of the insurer.

Title to
securities

(5) The property in any stock, bonds or debentures deposited with the Minister under this Act or any predecessor thereof is vested in the Minister by virtue of his office without any formal transfer while such stock, bonds or debentures form the whole or any part of the deposit required by this Act.

Interest
upon
deposits

(6) So long as the conditions of this Act are satisfied and no notice of any final judgment against the insurer or order for its winding-up or for the distribution of its assets or for administration of its deposit is given to the Minister, the insurer is entitled to receive the interest upon the securities forming the deposit. R.S.O. 1950, c. 183, s. 42.

Substitution
of securities

43. Where an insurer desires to substitute other approved securities for securities deposited, the Minister may permit the substitution to be made. R.S.O. 1950, c. 183, s. 43.

Withdrawal
of deposit in
certain cases

44.—(1) Where it is made to appear that an insurer, having made a deposit with the Minister, has made a deposit with any other government in Canada, the insurer is entitled, with the sanction of the Lieutenant Governor in Council, to withdraw the deposit with the Minister.

(2) If at any time it appears that an insurer has on deposit with the Minister under this Act a sum in excess of the prescribed amount, the Minister, upon being satisfied that the interest of persons effecting contracts of insurance with the insurer in Ontario will not be prejudiced thereby, and upon giving such notice in *The Ontario Gazette* and taking such other precautions as he deems expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he deems advisable, but the Minister may authorize such withdrawal without giving notice. R.S.O. 1950, c. 183, s. 44.

Withdrawal
of excess
deposit

45.—(1) An insurer that has ceased to transact business in Ontario and desires to obtain a return of its deposit may give written notice to that effect to the Superintendent, and shall publish in *The Ontario Gazette* a notice that it has applied to the Lieutenant Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the Superintendent on or before a day named in the notice, which shall not be less than three months after the first publication of it.

Return of
deposit on
ceasing to do
business

(2) Upon giving the notice to the Superintendent, the insurer shall file with him a list of all its outstanding contracts of insurance, including contracts in respect of which claims have accrued.

Filing list of
outstanding
contracts

(3) After the day named in the notice, if the Minister is satisfied that the insurer has obtained a discharge of all such outstanding contracts, the Lieutenant Governor in Council may direct that the deposit be returned.

Return of
deposit on
proof of
discharge of
contracts

(4) If the Minister is not satisfied that all such contracts have been discharged, the Lieutenant Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter, from time to time as such contracts lapse or proof is adduced that they have been satisfied, further return of the deposit may be directed by the Lieutenant Governor in Council. R.S.O. 1950, c. 183, s. 45.

Return of
part of
deposit

46. In sections 47 to 73,

Interpre-
tation

1. "insured person" means a person who enters into a subsisting contract of insurance with an insurer and includes,
 - (a) a person insured by a contract whether named or not; and
 - (b) a person to whom or for whose benefit all or part of the proceeds of a contract of insurance is payable; and

- (c) a person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 223;
2. "loss" includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;
3. "Ontario contract" means a subsisting contract of insurance that,
- (a) has for its subject,
- (i) property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or
- (ii) the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario; or
- (b) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;
4. "reciprocal deposit" means a deposit of an insurer held pursuant to section 69 or 70;
5. "reciprocating province" means a province that has been declared to be a reciprocating province under paragraph 1 of subsection 1 of section 69 or subsection 1 of section 70 with respect to the deposit of a particular insurer. 1951, c. 39, s. 5, *part.*

Deposit
may be used
to reinsure
Ontario
contracts

47.—(1) Notwithstanding anything hereinafter contained but subject to subsection 2, at any time before the granting of an order for administration of a deposit and upon the recommendation of the Superintendent certifying that such action is necessary or desirable for the protection of policyholders entitled to share in the proceeds of the deposit, the Minister may use all or any part of the deposit for the purpose of reinsuring all or any part of the Ontario contracts.

Consent
required
in case of
reciprocal
deposit

(2) A reciprocal deposit may be used for purposes of reinsurance in the manner and to the extent agreed upon by the superintendents of insurance of the reciprocating provinces and not otherwise. 1951, c. 39, s. 5, *part.*

48.—(1) The deposit made by an insurer under this Act is subject to administration in the manner hereinafter provided. Administration of deposit

(2) Subject to sections 69 and 70, the deposit shall be held and administered for the benefit of all insured persons under Ontario contracts and they are entitled to share in the proceeds of the deposit. Persons for whom deposit administered

(3) An insured person under an Ontario contract is entitled to share in the proceeds of the deposit in respect of, Claims entitling insured to share in deposit

- (a) a claim for a loss that is covered by the contract and that occurred before the termination date fixed under section 53 of this Act or section 233 of *The Corporations Act*; or R.S.O. 1960, c. 71
- (b) a claim for refund of unearned premiums, except in the case of life insurance; or
- (c) a claim for payment of the legal reserve in respect of the contract in the case of life insurance; or
- (d) claims under both clauses *a* and *b*. 1951, c. 39, s. 5, *part*.

49.—(1) An application for administration of a deposit shall be made by originating notice of motion to a judge of the Supreme Court. Application for administration of deposit

- (2) The application shall be made in the county or district, Where application to be made
 - (a) in which the head office of the insurer is situate; or
 - (b) in which the chief office of the insurer in Ontario is situate if its head office is out of Ontario. 1951, c. 39, s. 5, *part*.

50.—(1) With the approval of the Minister, the Superintendent may make application for administration at any time when, in his opinion, it is necessary or desirable for the protection of the insured person entitled to share in the proceeds of the deposit. Application by Superintendent

(2) In the case of a reciprocal deposit held in Ontario, the superintendent of insurance of a reciprocating province may make application for administration of the deposit. Idem

(3) An insured person entitled to share in the proceeds of a deposit may make application for administration of the deposit upon producing evidence, Application by insured persons

- (a) that he has served the Superintendent with a notice in writing of his intention to make application if the Superintendent or the superintendent of insurance of a reciprocating province does not apply; and

- (b) that sixty days have elapsed since the service of the notice and that no application for administration of the deposit has been made.

Duty of
Superinten-
dent in case
of reciprocal
deposit

(4) In the case of a reciprocal deposit, if the Superintendent is served with a notice as provided in subsection 3, he shall forthwith notify the superintendent of insurance of each reciprocating province that he has been so served. 1951, c. 39, s. 5, *part*.

Service of
notice of
motion

51.—(1) The applicant for administration of the deposit shall serve the originating notice of motion at least ten days before the date specified in the notice for the making of the application.

- (a) upon the insurer or, where the insurer is in liquidation, upon the liquidator of the insurer; and
- (b) upon the Superintendent; and
- (c) in the case of a reciprocal deposit, upon the superintendent of insurance of each reciprocating province.

Order for
administra-
tion

(2) An applicant for administration is entitled to an order for administration upon proof,

- (a) that the licence of the insurer has been cancelled, and that its assets are insufficient to discharge its outstanding liabilities; or
- (b) that an order has been made for the winding up of the insurer; or
- (c) that the insurer has failed to pay,
 - (i) an undisputed claim for sixty days after it has been admitted, or
 - (ii) a disputed claim after final judgment and tender of a valid discharge,

if the claim arose under a contract of insurance in respect of which the deposit is subject to administration. 1951, c. 39, s. 5, *part*.

Receiver,
appoint-
ment

52.—(1) Upon granting an order for administration, the court shall appoint a receiver to administer the deposit.

Provisional
liquidator,
appointment
R.S.O. 1960,
c. 71
R.S.C. 1952,
c. 296

(2) Where a provisional liquidator or a liquidator has been appointed under this Act or *The Corporations Act* or a liquidator has been appointed under the *Winding-up Act* (Canada) to wind up a company that has made a deposit under this Act, the court may appoint the provisional liquidator or the liquidator as the receiver to administer the deposit.

(3) Thereupon the provisional liquidator or the liquidator shall administer the deposit for the benefit of the insured persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act. 1951, c. 39, s. 5, *part*.

Deposit,
how to be
adminis-
tered

53.—(1) Where a termination date has not been fixed by a provisional liquidator or a liquidator under section 233 of *The Corporations Act*, forthwith after his appointment, the receiver shall fix a termination date for the subsisting contracts of insurance of the insurer, and on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date.

Termination
date
R.S.O. 1960,
o. 71

(2) Where a receiver administering a reciprocal deposit held in another province for the benefit of the insured persons under Ontario contracts fixes a termination date for the subsisting contracts of insurance of the insurer, on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date.

Termination
of Ontario
contracts on
date fixed
by receiver
in another
province

(3) The termination date shall not be less than twenty and not more than forty-five days after the date upon which the receiver was appointed.

When
termination
date to be
fixed

(4) The receiver shall forthwith give notice in writing of the termination date to the Superintendent and, in the case of a reciprocal deposit, to the superintendent of insurance of each reciprocating province.

Notice of
termination
date

(5) The receiver shall forthwith publish notice of the termination date in *The Ontario Gazette* and in the official gazette of each reciprocating province and in such newspapers circulating in those provinces as the receiver in his opinion deems advisable in order to give reasonable notice of the termination date. 1951, c. 39, s. 5, *part*.

Publication
of notice

54.—(1) The Superintendent, upon receiving notice of a termination date fixed by the receiver administering the deposit of an insurer, shall forthwith take such action as he deems advisable in the interests of the insured persons under Ontario contracts to give notice of that date to them as soon as is reasonably possible.

Notice to
insured
persons
under
Ontario
contracts

(2) Without restricting the generality of subsection 1, the Superintendent may forthwith require each agent of the insurer in Ontario to forward to him a list showing the name and address of each person who has entered into a contract of insurance with the insurer of whom the agent has a record.

List of
insured
persons

Notice to
persons
on list

(3) On receipt of each list forwarded by an agent, the Superintendent may send by ordinary mail to each person whose name appears on the list a notice containing,

- (a) the termination date fixed by the receiver;
- (b) the name and address of the receiver to whom particulars of claims for loss and claims for refund of unearned premiums should be submitted; and
- (c) such other information as the Superintendent deems advisable.

Publication
of contents
of notice

(4) The Superintendent in his discretion may publish, broadcast or otherwise communicate or distribute the information contained in the notice, either generally or in any particular area or case, in such manner and by such means as he deems best suited to convey the information to the insured persons as soon as is reasonably possible having regard to all the circumstances. 1951, c. 39, s. 5, *part*.

Duty of
receiver
on appoint-
ment

55. Forthwith after his appointment, the receiver shall,

- (a) call either upon the insurer or its agent or liquidator to furnish a list of all insured persons who are entitled to share in the proceeds of the deposit; and
- (b) call upon all insured persons who are entitled to share in the proceeds of the deposit to file their claims if they have not already done so. 1951, c. 39, s. 5, *part*.

Powers of
Master of
Supreme
Court
exercisable
by receiver

56. The court, by the order appointing a receiver or by any subsequent order, may authorize the receiver to exercise, in respect of the accounts of the insurer, all or any of the powers that the Master of the Supreme Court would have if he were taking an account of the claims against the deposit, and every receiver so authorized has those powers as well as all other powers enjoyed by a receiver appointed under an order of the court. 1951, c. 39, s. 5, *part*.

Application
by receiver
for order
for sale of
securities

57.—(1) The receiver may apply to the court from time to time for an order authorizing him,

- (a) to sell or realize upon all or part of the securities comprised in the deposit of the insurer; and
- (b) to pay from the proceeds thereof the costs of the administration of the deposit, including salaries of office staff, office expenses, the fee for the services of the receiver, fees and disbursements to adjusters and solicitors, and such other costs and expenses as the court deems proper.

Notice of
application

(2) The court may require the receiver to give such notice of the application in such manner as the court requires.

(3) After hearing the application, the court may make the order and may require the receiver to comply with such conditions as the court directs. 1951, c. 39, s. 5, *part*. Making of order

58. The proceeds of the deposit are payable,

- (a) first, in payment of the receiver and of all costs and expenses incurred by him in the administration of the deposit and in payment of the remuneration, costs and expenses of the provisional liquidator as ordered by the Minister under section 229 of *The Corporations Act*; Priorities in payment of proceeds of deposit
R.S.O. 1960, c. 71
- (b) second, in payment of the insured persons who are entitled to share in the proceeds of the deposit in accordance with the priorities set out in section 59. 1951, c. 39, s. 5, *part*.

59.—(1) Except in the case of life insurance, each insured person who claims in respect of a loss covered by the contract that occurred before the termination date fixed under section 53 of this Act or section 233 of *The Corporations Act* is entitled to receive payment of his approved or settled claim in full in priority to the insured persons who claim in respect of refunds of unearned premiums. Priority of loss claims

(2) Subject to subsection 1, an insured person who claims in respect of a refund of unearned premiums may claim such part of the premium paid as is proportionate to the period of his contract unexpired, Priority of unearned premium claims

- (a) at the termination date fixed by the receiver under section 53 or fixed by the provisional liquidator or the liquidator under section 233 of *The Corporations Act*; or

(b) at the date the insured person cancelled the contract, whichever is the earlier date.

(3) In the case of life insurance, each insured person who has a claim for a loss covered by the contract that occurred before the termination date fixed under section 53 of this Act or section 233 of *The Corporations Act* ranks in the distribution of the proceeds of the deposit for the approved or settled amount of the claim *pari passu* with insured persons under unmaturred life insurance contracts. Priority of life insurance claims

(4) An insured person under an unmaturred life insurance contract is entitled to the full amount of the legal reserve in respect of his contract determined by the receiver according to the valuation thereof approved by the Superintendent under this Act. 1951, c. 39, s. 5, *part*. Claim under unmaturred life policy

Action of
receiver
on receipt
of claims

60.—(1) Where an insured person has filed a claim for a loss covered by the contract that occurred before the termination date fixed under section 53 of this Act or section 233 of *The Corporations Act*, the receiver shall inquire into the claim and,

- (a) may approve the claim, if a final judgment has been obtained against the insurer in respect thereof; or
- (b) may approve the claim, if it has been adjusted or settled by the insurer or by the receiver at an amount that in his opinion the claimant is reasonably entitled to receive; or
- (c) may refuse to approve the claim or the amount thereof.

Appeal from
receiver

(2) An appeal lies from any decision of the receiver, if taken within thirty days from the date on which the person appealing received notice of the decision.

Manner of
appeal

(3) The appeal shall be taken by service on the receiver and by the filing of a notice of motion returnable before a judge of the Supreme Court in chambers who may summarily determine the matter or may direct an issue to be tried or may make such other order as he deems proper. 1951, c. 39, s. 5, *part.*

List of
persons
entitled to
share in
deposit

61.—(1) The receiver shall prepare a list showing the names of the persons who appear by the books and records of the insurer or otherwise to be entitled to share in the proceeds of the deposit.

Schedule of
approved
claims for
losses

(2) The receiver shall prepare and attach to the list a schedule of approved claims for losses of persons whose names appear on the list showing in respect of each approved claim,

- (a) the name and address of the claimant;
- (b) the particulars of the contract of insurance upon which the claim is based;
- (c) whether the claim was reduced to judgment or was adjusted or settled; and
- (d) the amount to which the claimant is entitled.

Schedule
of un-
approved
claims for
losses

(3) The receiver shall prepare and attach to the list a schedule of unapproved claims for losses of persons whose names appear on the list showing in respect of each claim,

- (a) the name and address of the claimant;
- (b) the particulars of the contract of insurance upon which the claim is based;

- (c) the amount for which the claim is made or the amount estimated by the receiver as the probable maximum amount that will be payable under the contract in respect of that loss.

(4) Except in the case of life insurance, the receiver shall prepare and attach to the list a schedule of unearned premiums refundable showing in respect of each person whose name appears on the list and who is entitled to a refund, Schedule of
unearned
premiums

- (a) his name and address;
- (b) the particulars of the contract of insurance in respect of which the unearned premium is refundable;
- (c) the date on which the policy was terminated either by the receiver under section 53 or by the provisional liquidator or the liquidator under section 233 of *The Corporations Act*, or was cancelled by the insured person; R.S.O. 1960,
c. 71
- (d) the amount of the unearned premium as calculated by the receiver under subsection 2 of section 59.

(5) In the case of life insurance, the receiver shall prepare and attach to the list a schedule of contract legal reserves showing in respect of each person whose name appears on the list and who is entitled to claim for the legal reserve in respect of his contract, Schedule of
legal
reserves on
life policies

- (a) his name and address;
- (b) the particulars of the contract of insurance in respect of which the legal reserve is payable;
- (c) the amount of the legal reserve calculated by the receiver under subsection 4 of section 59. 1951, c. 39, s. 5, *part*.

62.—(1) Upon completion of the schedules and after having paid or provided reasonable reserves out of the deposit to pay the amounts payable under clause *a* of section 58, the receiver may apply to the court for an order authorizing the payment of such aggregate sum as is fixed by the court on account of the amounts payable under clause *b* of section 58. Application
for order
for payment
on account
of claims

(2) Except in the case of life insurance, the receiver shall divide the sum mentioned in subsection 1 so as to provide for payment of the claims for losses in full or, if the sum is inadequate, *pro rata* on account of, Provision
for payment
of claims

- (a) the approved claims for losses set out in the schedule of approved claims for losses; and
- (b) the unapproved claims for losses set out in the schedule of unapproved claims for losses,

and shall distribute the part referred to in clause *a* at such time or times as the receiver determines to the persons entitled thereto and shall retain the part referred to in clause *b* for distribution from time to time as the unapproved claims are approved.

Payment of
unearned
premiums

(3) Except in the case of life insurance, if there appears to be a surplus remaining after the receiver has paid or retained a sum that, in his opinion, is reasonably adequate to pay in full all claims for losses referred to in subsection 2, the receiver shall divide the surplus so as to provide for payment of all unearned premiums in full or, if it is inadequate, among the persons entitled to a refund of unearned premiums in proportion to the amounts payable as set out in the schedule of unearned premiums refundable.

Payment of
claims in
case of life
insurance

(4) In the case of life insurance, the receiver shall divide the sum fixed under subsection 1 so as to provide for payment of the following amounts in full or, if the sum is inadequate, *pro rata* on account of,

- (a) the approved claims for losses set out in the schedule of approved claims for losses;
- (b) the unapproved claims for losses set out in the schedule of unapproved claims for losses;
- (c) the full amount of the legal reserve in respect of each matured life insurance contract as set out in the schedule of contract legal reserves,

and shall distribute the parts referred to in clauses *a* and *c* at such time or times as the receiver determines to the persons entitled thereto and shall retain the part referred to in clause *b* for distribution from time to time as the unapproved claims are approved. 1951, c. 39, s. 5, *part*.

Payment of
delayed
claims

63. If a claim in respect of a loss that occurred before the termination date is filed after the receiver has applied to the court under subsection 1 of section 62 and before the final order of the court discharging the receiver, the claimant is entitled to share in the distribution of the moneys remaining in the hands of the receiver upon proof of his claim and upon such terms and conditions as the court directs. 1951, c. 39, s. 5, *part*.

Application
to court for
direction

64. The receiver administering a deposit may apply to the court at any time on summary application for directions or advice pertaining to any matter arising in the administration of the deposit. 1951, c. 39, s. 5, *part*.

65. Upon the completion of the distribution of the proceeds of the deposit, the receiver shall submit his final accounts to the court and the court, on the passing thereof, may make an order approving the accounts and discharging the receiver. 1951, c. 39, s. 5, *part*.

Submission by receiver of final accounts

66. If a claim is made after the completion of the distribution of the proceeds of the deposit and the discharge of the receiver or if there is a claim against the insurer by an insured person not fully paid by the distribution of the proceeds of the deposit, the claimant is not barred from any recourse he may have against the insurer, and his claim is a first lien or charge on the assets of the insurer in winding up as provided in subsection 2 of section 231 of *The Corporations Act*. 1951, c. 39, s. 5, *part*.

Claims remaining unpaid after distribution of deposit

R.S.O. 1960, o. 71

67. A person who holds security for his claim under a contract of insurance, or who is entitled to share in the administration of a fund deposited with the government of any other province for the protection of persons resident in that province, is only entitled to share in the administration of the Ontario deposit if he abandons such special security and releases his claim upon any other government deposit. 1951, c. 39, s. 5, *part*.

Certain persons not entitled to share in proceeds of deposit

68.—(1) In sections 69 and 70, the expression “contracts”, in relation to any other province of Canada, has the meaning assigned to it by the Act of that province under which insurers are licensed to carry on the business of insurance.

Interpretation

(2) This section and sections 69 and 70 are applicable notwithstanding that the insurer is or may become licensed in one province for classes of insurance different from those for which it is or may become licensed in another province.

Application of ss. 69, 70

(3) Sections 69 and 70 prevail over any other provisions of this Act to the extent that they are inconsistent with such other provisions. 1951, c. 39, s. 5, *part*.

Conflict

69.—(1) Where an insurer has its head office for Canada in Ontario and makes a deposit under this Act for the purposes of this section by virtue whereof the insurer will not be required to make a deposit in another province in which it is or may become licensed to undertake insurance, the following provisions are in effect:

Reciprocal deposits

1. The amount of the deposit to be made and maintained by the insurer shall be fixed by order of the Lieutenant Governor in Council and the order shall declare what provinces are reciprocating provinces with respect to that insurer's deposit.

Order prescribing amount of deposit and reciprocating provinces

Deposit as
security for
contracts

2. The deposit shall be held and administered as security *pari passu* for the Ontario contracts of the insurer and for its contracts in any reciprocating province.

Certificate
of Superin-
tendent as
to deposit

3. The Minister shall, upon the request of the official who issues or proposes to issue a licence to the insurer in another province, certify under his hand that the deposit is held in the manner provided by paragraph 2, and the Superintendent shall forward the certificate to that official and a copy to the superintendent of insurance in each province.

Further
deposit

4. Where, with respect to the outstanding contracts of the insurer, it appears to the Superintendent from the annual statement under section 76 or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, or where it appears to the superintendent of insurance for another province in which the insurer is licensed from any annual report made to him by the insurer or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary and such superintendent requests the Superintendent to obtain a further deposit, the insurer shall forthwith deposit such further sum as the Lieutenant Governor in Council fixes.

Transfer of
deposit to
Minister of
Finance

R.S.C. 1952,
cc. 31, 125

5. If the insurer obtains a certificate of registration from the Government of Canada extending to this or another province and as a registrant makes a deposit under the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada), the Minister may, on the request of the insurer, authorize the Treasurer of Ontario to deliver to the insurer or to transfer to the Minister of Finance for Canada all or any part of such deposit as the Minister thinks fit having regard to the extent of the certificate of registration, and the Superintendent shall forthwith give notice of the delivery or transfer to the superintendent of insurance of each reciprocating province.

Notice of
suspension
or cancella-
tion of
licence

6. Where the licence of the insurer is suspended or cancelled under this Act, the Superintendent shall forthwith give notice to the superintendent of insurance in each province.

Cessation
of business
in Canada

7. Where the insurer ceases to carry on insurance business in Canada and its deposit may be withdrawn under this Act, the Superintendent shall notify the superintendent of insurance in each province, and all claims and liabilities arising in any such

province shall be verified by the superintendent of insurance of that province and a statement thereof communicated to the Superintendent.

8. Where the insurer ceases to transact business in or its licence is suspended or cancelled in a reciprocating province and notice thereof is given to the Superintendent, the Minister and the Superintendent, upon the request of the superintendent in the reciprocating province, may take any action that could be taken if the insurer ceased to transact business in or its licence was suspended or cancelled in Ontario.

Cessation
of business
in reciprocating
province

(2) The insurer shall not change the location of its head office to another province without the consent of the Minister, but, where the Minister so consents, he may authorize the Superintendent to transfer the insurer's deposit to the minister responsible for the deposit in that province or to the insurer, as the minister in that province requests, and the Superintendent shall forthwith give notice of any change or transfer to the superintendent of insurance of each reciprocating province. 1951, c. 39, s. 5, *part, amended*.

Change of
location of
head office
and transfer
of deposit

70.—(1) Where an insurer has its head office for Canada in another province and there makes a deposit of such amount as is fixed by the proper authority in that province, and under the laws of that province the deposit is held as security *pari passu* for its Ontario contracts and its contracts in every reciprocating province, the Minister, upon receipt of a certified copy of an order of the lieutenant governor in council of the province in which the deposit is made fixing the amount of the deposit and declaring that Ontario is a reciprocating province with respect to that insurer's deposit, and upon receipt of the consent of the insurer to its deposit being so held, shall exempt the insurer from the provisions of this Act requiring it to make and maintain a deposit.

Exemption
of insurer
with head
office for
Canada in
another
province

(2) Where the insurer ceases to transact business in or its licence is suspended or cancelled in Ontario, the Superintendent shall forthwith give notice thereof to the superintendent of insurance of the province in which the reciprocal deposit is held and to the superintendent of insurance of each other reciprocating province.

Notice of
ceasing to
transact
business

(3) Where an order is made for the administration of a reciprocal deposit held in another province under subsection 1, the Superintendent, as soon as is reasonably possible after receipt of notice of the termination date fixed by the receiver, shall proceed pursuant to section 54 to give the notice required by that section to the insured persons under the Ontario contracts.

Notice to
insured
persons
under
Ontario
contracts

Transfer
of deposit

(4) Where a licensed insurer is exempted under this section, the Minister shall transfer its deposit under this Act to the minister responsible for the deposit in the province in which the insurer has its head office or to the insurer, as that minister requests. 1951, c. 39, s. 5, *part*.

Agreement
to use
securities to
reinsure

71. At any time before the granting of an order for the administration of a reciprocal deposit, the superintendent of insurance of each reciprocating province may enter into an agreement to use all or any part of the securities deposited for the purpose of reinsuring all or any part of the risks of the insurer outstanding in all or any of those provinces. 1951, c. 39, s. 5, *part*.

Application
of ss. 68-70
to other
provinces

72.—(1) The Lieutenant Governor in Council may, on being satisfied that any other province has enacted provisions identical with or substantially the same as sections 68 to 70, order that those sections apply to that province.

Copy of
order

(2) A copy of every order under subsection 1 shall be sent to the superintendent of insurance in each province. 1951, c. 39, s. 5, *part*.

Transfer of
deposit from
discontin-
ing insurer
to con-
tinuing
insurer

73.—(1) Where a licensed insurer, hereinafter called the continuing insurer, has, by purchase or otherwise, acquired the assets and assumed the liabilities in Ontario of another licensed insurer, hereinafter called the discontinuing insurer, or reinsured all the contracts of a discontinuing insurer outstanding in Ontario, the Lieutenant Governor in Council may, upon the application of the continuing insurer, and upon the report of the Superintendent, direct the transfer of the deposit held by the Minister under this Act in the name of the discontinuing insurer to the continuing insurer.

Effect of
transfer

(2) In any such case, the deposit so transferred shall thereafter be treated and dealt with under this Act in the same manner as though it had been originally deposited by the continuing insurer. 1951, c. 39, s. 5, *part*.

RECORDS AND RETURNS

Record of
premium
income and
losses

74.—(1) Every licensed insurer that carries on in Ontario the business of fire insurance shall keep a record of its premium income derived from risks located in Ontario and of claims paid in respect of such risks so as to show at any time its experience according to the classification of occupancy hazards of the National Board of Fire Underwriters, with such modifications as the Superintendent prescribes.

(2) If at any time it appears to the Minister on the report of the Superintendent that such records are not kept in such a manner as to show correctly the experience of the insurer in Ontario as required by this Act, the Minister may nominate a competent accountant to proceed under his direction to audit the books and records of the insurer and to give such instructions as will enable the officers of the insurer to keep the records correctly thereafter.

Audit and
direction
where
records not
duly kept

(3) The expense of such an audit shall be borne by the insurer and shall not exceed \$15 per day and necessary travelling expenses of the accountant nominated and the account shall, when certified and approved under the hand of the Superintendent, be paid by the insurer forthwith.

Expenses
of audit

(4) Every licensed insurer undertaking the business of fire insurance in Ontario shall prepare and file annually with the Superintendent on or before the 1st day of July in each year, on a printed form to be supplied by the Superintendent, a sworn statement of the premium income and losses experienced in Ontario for the calendar year next preceding the date of the return according to the records required to be kept by this section.

Annual
statement
of premium
income and
losses

(5) Any insurer and the principal officer in Ontario of any insurer that contravenes this section is guilty of an offence. R.S.O. 1950, c. 183, s. 72.

Offence

75.—(1) Every licensed insurer that carries on in Ontario the business of automobile insurance shall prepare and file, when required, with the Superintendent, or with such statistical agency as he designates, a record of its automobile insurance premiums and of its loss and expense costs in Ontario, in such form and manner and according to such system of classification as he approves.

Record of
automobile
premiums
and costs

(2) The Superintendent may require any agency so designated to compile the data so filed in such form as he approves, and the expense of making the compilation shall be apportioned among the insurers whose data is compiled by such agency by the Superintendent who shall certify in writing the amount due from each insurer and it is payable by the insurer to such agency forthwith.

Compilation
of data

(3) Subsections 2, 3 and 5 of section 74 apply *mutatis mutandis* to this section. R.S.O. 1950, c. 183, s. 73.

Application,
s. 74, subss.
2, 3 and 5

76.—(1) Subject to section 296, every licensed insurer shall prepare annually and deliver to the Superintendent, on or before the last day of February of each year, a statement of the condition of affairs of the insurer as at the 31st day of December next preceding, which statement shall be in such

Annual
statement

form as is prescribed by the Superintendent and shall exhibit the assets, liabilities, receipts and expenditures of the insurer for the calendar year ended on such date, and shall also exhibit particulars of the business done in Ontario during such year and such other information as is deemed necessary from time to time by the Minister or Superintendent, and such statement shall be verified in the manner prescribed by the Superintendent.

Modified
statement
for Canada
licensees

(2) In the case of an insurer designated by the Lieutenant Governor in Council, the Superintendent may, in lieu of the annual statement required to be filed by all insurers under subsection 1, direct the preparation of a modified statement respecting the business of the insurer in Ontario only.

Who may
verify
statement

(3) In the case of a corporation, such statement shall be verified by the president, vice-president or managing director, or other director appointed for the purpose by the board of directors, and by the secretary or manager of the corporation.

Prompt
reply to
inquiries

(4) An insurer shall, when required by the Superintendent, make prompt and explicit answer in reply to any inquiry directed to the insurer by him in relation to the statement or in relation to the transactions of the insurer in Ontario.

Unearned
premiums
a liability

(5) In the case of all classes of insurance, other than life insurance, and in the case of all insurers, the statement shall show as a liability of the insurer 80 per cent of the actual portions of unearned premiums on all business in force on the 31st day of December then last past or 80 per cent of 50 per cent of the premiums written in its policies and received in respect of contracts having one year or less to run and *pro rata* on those for longer periods.

Life
insurers

(6) In the case of insurers transacting life insurance, the statement shall show as a liability the valuation of outstanding contracts of insurance according to the standard for valuation of policies of life insurance prescribed by section 80, or such higher standard as the insurer, with the approval of the Superintendent, adopts.

Certain
agents' bal-
ances, un-
authorized
securities,
etc., must
not show
as assets

(7) The statement shall not show as assets the unpaid balances owing by agents or other insurers in respect of business written before the 1st day of October in the next preceding calendar year, or bills receivable on account of the same, or unpaid capital or premium on subscribed shares of capital stock, or investment in office furnishings or equipment, nor shall such statements include as assets any investments not authorized by any special or general Act to which the insurer is subject.

Valuation
of securities

(8) Every licensed insurer may, in its annual statement or in any valuation of its securities required to be made, value

all of its securities having a fixed term and rate and not in default as to principal or interest according to the following rule: if purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made; but the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and the Superintendent has full discretion in determining the method of calculating values according to the foregoing rule. R.S.O. 1950, c. 183, s. 74.

77. A statement purporting to show the financial condition of an insurer differing from the financial condition shown by the statement filed with the Superintendent, or a balance sheet or other statement in form differing from the form prescribed by the regulations, shall not be published or circulated, and every insurer publishing such a statement is guilty of an offence. R.S.O. 1950, c. 183, s. 75. Published statements

78. Every person who represents orally or in writing that the issue of a licence to an insurer or the printing or publication of an annual statement in the report of the Superintendent or in any other publication of the Department or any other circumstance of the supervision or regulation of the business of the insurer by law or the Department is a warranty or guarantee of the financial standing of the insurer or of its ability to provide for the payment of its contracts at maturity is guilty of an offence. R.S.O. 1950, c. 183, s. 76. Statements that financial standing guaranteed by government prohibited

REAL ESTATE

79.—(1) Except in the case of a fraternal society, a licensed insurer may acquire and hold absolutely for its own use and benefit such real property as is necessary for the transaction of its business or *bona fide* mortgaged to it by way of security, and such real property as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same, but such insurer shall sell any such last-mentioned real property within seven years after it has been so acquired. Power of insurers as to holding land

(2) Except in the case of a fraternal society, a licensed insurer may acquire and hold real property in addition to that provided for by subsection 1 and may acquire or hold or construct a building larger than is required for the transaction of its business and may lease any part of the building not so required, upon complying with and subject to *The Mortmain and Charitable Uses Act*. Additional real property
R.S.O. 1960
c. 246

Power of
licensed
fraternal
societies as
to holding
land

(3) In the case of a fraternal or mutual benefit society, any licensed society or any branch or lodge thereof may, subject to its constitution or rules, acquire and hold absolutely for its own use and benefit such real estate as is necessary for the transaction of its business or *bona fide* mortgaged to it by way of security and, when so authorized by the Lieutenant Governor in Council, may acquire and hold or construct a building larger than is required for the transaction of its business, and may lease any part of the building not so required, and may hold such real estate as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same; but the society, branch or lodge shall sell any such last-mentioned real estate within seven years after it has been so acquired.

Forfeiture

(4) Any such real property that has been held by the insurer for a longer period than seven years without being disposed of is forfeited to Her Majesty for the use of Ontario, but,

- (a) no such forfeiture takes effect until the expiration of at least six calendar months after notice in writing to the insurer by the Minister of the intention of Her Majesty to claim the forfeiture; and
- (b) the insurer may, notwithstanding such notice, before the forfeiture is effected, sell or dispose of the property free from liability to forfeiture. R.S.O. 1950, c. 183, s. 77 (1-4).

Life
insurance
companies,
investment
of funds in
housing
projects

(5) An insurer licensed for the transaction of life insurance may make such investments to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Superintendent in the purchase of land in Ontario or elsewhere in Canada where the insurer is carrying on business, the improvement thereof, the construction of buildings thereon, and the management and disposal thereof, as are referred to in *The National Housing Act, 1938* (Canada), the *National Housing Act* (Canada), or the *National Housing Act, 1954* (Canada), or any amendments thereto. R.S.O. 1950, c. 183, s. 77 (5); 1955, c. 35, s. 1 (1).

1938, c. 49
(Can.);
R.S.O. 1952,
c. 188;
1953-54,
c. 23 (Can.)

Licensed
insurers,
investment
in real
estate

(6) Except in the case of a fraternal society, a licensed insurer may make such investments in real estate or leaseholds in Ontario and elsewhere in Canada where the insurer is carrying on business as are referred to in paragraph 1 of subsection 4 of section 208 of *The Corporations Act*. R.S.O. 1950, c. 183, s. 77 (6); 1955, c. 35, s. 1 (2).

R.S.O. 1960,
c. 71

LIFE INSURANCE RESERVES

Standard of
valuation

80.—(1) The valuation of contracts of life insurance issued by insurers incorporated and licensed under the law of Ontario, except contracts of fraternal societies licensed under this Act,

shall be based on the British Offices' Life Tables, 1893, O^{M(5)}, and on a rate of interest of $3\frac{1}{2}$ per cent per annum, but any such insurer may, with the approval of the Superintendent, adopt the American Men Ultimate Table of Mortality A^{M(5)} with interest at $3\frac{1}{2}$ per cent per annum, for the valuation of contracts issued on and after the 1st day of January, 1929.

(2) In computing such valuation, a deduction may be allowed from the value of a policy in the first policy year of an amount ascertained in the following manner, namely: in the case of a twenty-payment life policy or any other form of policy, except a term policy, the net annual premium upon which is less than the corresponding net annual premium of a twenty-payment life policy, the difference between the net annual premium for such policy and the corresponding net premium for a one-year term insurance, and in the case of a policy with a net annual premium greater than that of a twenty-payment life policy, an amount equal to the deduction allowed in respect of a twenty-payment life policy.

Deduction
allowed in
first policy
year

(3) After the first policy year, the deduction allowed by subsection 2 shall be diminished each year by an amount not less than one-ninth of the deduction in the first policy year so that in the tenth year from the date of issue the value of the policy shall not be less than that ascertained in accordance with subsection 1.

Deduction
in subse-
quent years

(4) In case of policies subject to less than ten annual premiums, the deduction ascertained as provided in subsection 2 shall, in each year after the first policy year, be reduced by an amount not less than the equal parts thereof required to provide that the value of the policy at the end of the premium paying period shall be not less than that ascertained in accordance with subsection 1.

Deduction
where less
than ten
annual
premiums

(5) No insurer shall issue any contract of life insurance that does not appear to be self-supporting upon reasonable assumption as to interest, mortality and expenses.

Contract
must be self-
supporting

(6) Where a contract of life insurance provides for accident or sickness insurance benefits, the Superintendent may prescribe by regulations the basis for valuing such benefits, but no deduction shall be allowed from the basis so fixed under subsection 2, and in the valuation of the life insurance benefits under such contracts, the amount of the net annual premium upon which the deduction provided for in subsections 1 to 5 is to be based shall be the net annual premium exclusive of the premium for such accident or sickness benefits.

Accident
and sickness
benefits

(7) In the case of annuity contracts, whether immediate or deferred, the valuation basis shall be the British Offices' Select Life Annuity Tables, 1893 (male or female according to the sex of the nominee) with interest at $3\frac{1}{2}$ per cent per annum.

Annuity
contracts

Valuation
of fraternal
society
contracts

(8) Where the contracts of a fraternal society are reinsured by a licensed insurer other than a fraternal society, the reinsurer may, with the approval of the Superintendent, value such contracts on the American Men Ultimate Table of Mortality A^{M(6)} with interest at 4 per cent per annum. R.S.O. 1950, c. 183, s. 78.

INSURANCE WITH UNLICENSED INSURERS

Insurance
with
unlicensed
insurers

81. Notwithstanding anything in this Act, any person may insure property situated in Ontario against fire with an unlicensed insurer, and any property insured or to be insured under this section may be inspected and any loss incurred in respect thereof adjusted, if such insurance is effected outside Ontario and without any solicitation whatsoever directly or indirectly on the part of the insurer. R.S.O. 1950, c. 183, s. 79.

UNDERWRITERS AGENCIES

Licence

82.—(1) A policy of insurance shall not be issued through any underwriters agency under its own name for an insurer, unless the insurer is licensed to carry on business in Ontario and has obtained from the Superintendent a licence to issue contracts of insurance through such underwriters agency.

Form of
policy

(2) Every policy of insurance issued through any such underwriters agency shall be in a form approved by the Superintendent and shall bear upon its face the name and address of the insurer in a prominent and conspicuous manner, and the name of the underwriters agency shall not appear on the face of the policy except as a countersignature thereto.

Name on
filing back

(3) On no other part of the policy shall the name of the underwriters agency appear except that for identification purposes the words "issued through the..... Underwriters Agency" may be printed on the filing back of the policy following the name of the insurer and in type not larger than half the depth of that used in printing such name.

Evidence of
adoption of
form of
policy by
insurer

(4) Upon an application for a licence under this section, the insurer shall furnish to the Superintendent evidence of its approval and adoption of the form of policy to be issued through the underwriters agency and of the authority of the underwriters agency or its agents to bind the insurer.

Annual
return

(5) Every insurer licensed under this Act carrying on business or issuing any policy of insurance through any such underwriters agency shall file an annual return of the business transacted through the same underwriters agency in a form prescribed by the Superintendent. R.S.O. 1950, c. 183, s. 80.

GENERAL

83. Any person, other than an insurer or its duly authorized agent, who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or who trafficks or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself or any other person, is guilty of an offence. R.S.O. 1950, c. 183, s. 81. Trafficking in life insurance policies prohibited

84. Any information, document, record, statement or thing made or disclosed to the Superintendent concerning a person licensed or applying for licence under this Act is absolutely privileged and shall not be used as evidence in any action or proceeding in any court brought by or on behalf of such person. R.S.O. 1950, c. 183, s. 82. Privileged information

85.—(1) The Superintendent may require an insurer to file with him a copy of any form of policy or of the form of application for any policy issued or used by the insurer. Insurer to file form of policy

(2) The Superintendent shall report to the Minister any case where an insurer issues a policy or uses an application that, in the opinion of the Superintendent, is unfair, fraudulent or not in the public interest, and after hearing the insurer the Minister may, if he concurs in the report, order the Superintendent to prohibit the insurer from issuing or using such form of policy or application. Prohibition of certain policies

(3) An insurer that, after being so prohibited, issues any such policy or uses any such application is guilty of an offence. R.S.O. 1950, c. 183, s. 83. Offence

86. Unless the contract otherwise provides, a contravention of any criminal or other law in force in the province or elsewhere does not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the contravention is committed by the insured, or by another person with the consent of the insured, with intent to bring about loss or damage but in the case of a contract of life insurance this section applies only to disability insurance undertaken as part of the contract. R.S.O. 1950, c. 183, s. 84. Violation of law, effect of, on claim for indemnity

PENALTIES

87.—(1) Unless otherwise provided, every person guilty of an offence under this Act shall incur a fine of not less than \$20 and not more than \$200 for every such offence. General penalty

Suspension
of licence

(2) In addition, where an insurer contravenes the prohibitions or fails to comply with the requirements of this Act, the Lieutenant Governor in Council may, upon the report of the Superintendent, suspend or cancel the licence of the insurer.

Penalty for
carrying on
business
without a
licence

(3) Every insurer undertaking insurance or carrying on business in Ontario without holding a licence to do so is guilty of an offence and shall incur a fine of \$50 for each and every day during which the default continues.

Penalty for
default in
making
returns

(4) In case of default in making a return required by this Act to be made within a limited time, the insurer or the person required by this Act to make the return shall, in addition to the fine provided by subsection 1, incur a further fine of \$100 for every month or part thereof during which such insurer or person neglects to file the return so required.

Burden of
proof of
licence

(5) In any prosecution under this Act, whenever it appears that the accused has done any act or been guilty of any omission in respect of which he would be liable to some penalty under this Act or the regulations made hereunder, unless he is duly licensed, it is incumbent upon him to prove that he is duly licensed.

Recovery
and disposi-
tion of fines
R.S.O. 1960,
c. 387

(6) The fines imposed under this Act are recoverable under *The Summary Convictions Act* and when recovered shall be paid over to the Treasurer of Ontario for the use of Ontario. R.S.O. 1950, c. 183, s. 85, *revised*.

FEES AND REGULATIONS

Fees

88.—(1) Until otherwise prescribed by the Lieutenant Governor in Council, the fees or taxes payable to the Department by an insurer or other person are as mentioned in Schedule A.

When
payable

(2) Such fees or taxes shall be paid before a licence or the renewal of a licence is issued. R.S.O. 1950, c. 183, s. 86 (1, 2).

Regulations

(3) The Lieutenant Governor in Council may make regulations,

- (a) altering or amending the scale of fees or taxes provided for in Schedule A;
- (b) extending the provisions of this Act or any of them to a system or class of insurance not particularly mentioned in this Act;
- (c) prescribing the limitations and conditions subject to which a licence to an insurer may be issued;

- (d) generally for the better administration of the Department or the carrying out of the provisions of this Act. R.S.O. 1950, c. 183, s. 86 (3); 1957, c. 51, s. 3.

PART III

INSURANCE CONTRACTS IN ONTARIO

89. Except where otherwise provided and where not inconsistent with other provisions of this Act, this Part applies to every contract of insurance made in Ontario, other than contracts of, Application of Part

- (a) accident and sickness insurance;
- (b) life insurance; and
- (c) marine insurance. R.S.O. 1950, c. 183, s. 87.

90. Where the subject-matter of a contract of insurance is property in Ontario or an insurable interest of a person resident in Ontario, the contract of insurance, if signed, countersigned, issued or delivered in Ontario or committed to the post office or to any carrier, messenger or agent to be delivered or handed over to the insured, his assign or agent in Ontario shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in Ontario of the insurer in lawful money of Canada. R.S.O. 1950, c. 183, s. 88. Contracts deemed made in Ontario

91.—(1) All the terms and conditions of the contract of insurance shall be set out in full in the policy or by writing securely attached to it when issued, and, unless so set out, no term of the contract or condition, stipulation, warranty or proviso modifying or impairing its effect is valid or admissible in evidence to the prejudice of the insured or beneficiary. Terms, etc., of contracts invalid unless set out in full

(2) Subsection 1 does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy. Exception

(3) Whether the contract does or does not provide for its renewal, but it is renewed by a renewal receipt, it is a sufficient compliance with subsection 1 if the terms and conditions of the contract were set out as provided by that subsection and the renewal receipt refers to the contract by its number or date. Contents of renewal receipt

(4) The proposal or application of the insured shall not as against him be deemed a part of or be considered with the What regard to be given to proposal

contract of insurance except in so far as the court determines that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

Contract not to be invalidated by erroneous statement in application unless material

(5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the insurer, unless such term, condition, stipulation, warranty or proviso is and is expressed to be limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

Materiality, how decided

(6) The question of materiality in a contract of insurance is a question of fact for the jury, or for the court if there is no jury, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto, has any force or validity.

Application

(7) This section does not apply to contracts of fire or automobile insurance. R.S.O. 1950, c. 183, s. 89.

Copy of proposal to be furnished to insured

92. An insurer shall upon request furnish to the insured a true copy of his application or proposal for insurance. R.S.O. 1950, c. 183, s. 90.

No contract shall be inconsistent with Act

93.—(1) No insurer shall make a contract of insurance inconsistent with this Act.

Rights of insured

(2) An act or omission of the insurer resulting in imperfect compliance with any of the provisions of this Act does not render a contract invalid as against the insured. R.S.O. 1950, c. 183, s. 91.

Contents of policy

94.—(1) Every policy shall contain the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the premium for the insurance, the subject-matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which the liability is to accrue and the term of the insurance.

Application of section

(2) This section does not apply to contracts of automobile and guarantee insurance. 1956, c. 32, s. 3.

95.—(1) Where a person incurs a liability for injury or damage to the person or property of another, and is insured against such liability, and fails to satisfy a judgment awarding damages against him in respect of his liability, and an execution against him in respect thereof is returned unsatisfied, the person entitled to the damages may recover by action against the insurer the amount of the judgment up to the face value of the policy, but subject to the same equities as the insurer would have if the judgment had been satisfied.

Right of claimant against insurer where execution against insured returned unsatisfied

(2) This section does not apply to motor vehicle liability policies. R.S.O. 1950, c. 183, s. 93.

Exception

96.—(1) Where several actions are brought for the recovery of money payable under a contract or contracts of insurance, the court may consolidate or otherwise deal therewith so that there is but one action for and in respect of all the claims made in such actions.

Consolidation of actions

(2) Where an action is brought to recover the share of one or more infants, all the other infants entitled, or the trustees, executors or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

Where infants are entitled to insurance money

(3) In all actions where several persons are interested in the insurance money, the court or judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

Apportionment of sums directed to be paid

(4) Where the person entitled to receive money due and payable under a contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment is valid and effectual for all purposes. R.S.O. 1950, c. 183, s. 94.

When payee is domiciled or resident abroad

97.—(1) Where the policy has been delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

Effect of delivery of policy

(2) The insurer may sue for the unpaid premium and may deduct the amount thereof from the amount for which he is liable under the contract of insurance.

Right of insurer in respect of unpaid premium

(3) Where a cheque, bill of exchange or promissory note or any promise to pay is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note or other promise to pay is

Where note or cheque for premium not honoured

not honoured according to its tenor, the insurer may terminate the contract forthwith by giving written notice by registered mail. 1956, c. 32, s. 4.

Insurer
to furnish
forms

98.—(1) An insurer, immediately upon receipt of a request, and in any event not later than sixty days after receipt of notice of loss, shall furnish to the insured or person to whom the insurance money is payable forms upon which to make the proof of loss required under the contract. 1956, c. 32, s. 5.

Offence

(2) An insurer who neglects or refuses to comply with subsection 1 is guilty of an offence. R.S.O. 1950, c. 183, s. 96 (2).

When action
may be
brought
under
contract

99. No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract,

(a) of the loss; or

(b) of the happening of the event upon which the insurance money is to become payable,

or of such shorter period as is fixed by the contract of insurance. 1956, c. 32, s. 6.

INSURANCE AS COLLATERAL SECURITY

Mortgagee
not to re-
ceive com-
mission
from insurer

100.—(1) A mortgagee shall not accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of such mortgagee shall accept or receive any commission or other remuneration or benefit in consideration of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

Payment of
commission
prohibited

(2) No insurer or agent or broker shall pay, allow or give any commission or other remuneration or benefit to a mortgagee or to any person in his employ or on his behalf, in consideration of effecting a contract of insurance or renewal thereof, under which contract loss, if any, is payable to him as mortgagee.

Offence

(3) Any insurer or other person who contravenes this section is guilty of an offence. R.S.O. 1950, c. 183, s. 98.

Right to
refund of
premium
on termina-
tion of
contract

101.—(1) Where an insured assigns the right to refund of premium that may accrue by reason of the cancellation or termination of a contract of insurance under the terms thereof and notice of the assignment is given by the assignee to the insurer, the insurer shall pay any such refund to the assignee

notwithstanding any condition in the contract, whether prescribed under this Act or not, requiring the refund to be paid to the insured or to accompany any notice of cancellation or termination to the insured.

(2) Where the condition in the contract dealing with cancellation or termination by the insurer provides that the refund shall accompany the notice of cancellation or termination, the insurer shall include in the notice a statement that in lieu of payment of the refund in accordance with the condition the refund is being paid to the assignee under this section. 1957, c. 51, s. 4. Idem

CONTRACTS OF GUARANTEE INSURANCE

102.—(1) Every contract of title insurance shall be in writing, and, in addition to the other requirements prescribed by this Act, shall expressly limit the liability of the insurer to a sum stated in the contract. Contracts of title insurance

(2) If a question arises as to the validity of the title insured, or as to the liability of the insurer, the insurer or the insured or any person entitled to proceed in right of either may by application have such question determined as provided in *The Vendors and Purchasers Act* in the case of vendors and purchasers. R.S.O. 1950, c. 183, s. 99. Questions as to validity of title
R.S.O. 1960, c. 414

GENERAL

103. Any licensed insurer that discriminates unfairly between risks in Ontario because of the race or religion of the insured is guilty of an offence. R.S.O. 1950, c. 183, s. 101. No racial or religious discrimination permissible

104.—(1) Where an insurer cannot obtain a sufficient discharge for insurance money for which it admits liability, the insurer may apply to the court *ex parte* for an order for the payment thereof into court, and the court may order the payment into court to be made upon such terms as to costs and otherwise as the court directs, and may provide to what fund or name the amount shall be credited. Payment into court

(2) The receipt of the registrar or other proper officer of the court is sufficient discharge to the insurer for the insurance money so paid into court, and the insurance money shall be dealt with according to the orders of the court. R.S.O. 1950, c. 183, s. 102. Discharge to insurer

PART IV

FIRE INSURANCE

105. In this Part, unless the context otherwise requires, "agricultural property" includes dwelling-houses, stables, barns, sheds and outbuildings and their contents, wagons, car- Interpretation

riages, and other vehicles, saddles and harness, agricultural engines, implements, tools, instruments, appliances and machinery, household goods, wearing apparel, provisions, musical instruments, and libraries, live stock, growing crops, and crops severed from the land, fruit and ornamental trees, shrubs and plants, and live or standing timber, being upon farms as farm property, and owned by members of the insurer in which the property is insured. R.S.O. 1950, c. 183, s. 103, par. 1.

Application
of Part

106.—(1) This Part applies to insurance against loss of or damage to property arising from the peril of fire in any contract made in Ontario except,

- (a) insurance falling within the classes of aircraft, automobile, boiler and machinery, inland transportation, marine, plate glass, sprinkler leakage and theft insurance;
- (b) where the subject-matter of the insurance is rents, charges or loss of profits;
- (c) where the peril of fire is an incidental peril to the coverage provided; or
- (d) where the subject-matter of the insurance is property that is insured by an insurer or group of insurers primarily as a nuclear risk under a policy covering against loss of or damage to the property resulting from nuclear reaction or nuclear radiation and from other perils. 1956, c. 32, s. 8, *part*; 1959, c. 44, s. 2.

Automobiles

(2) Notwithstanding subsection 1, this Part applies to insurance of an automobile as provided in subsection 2 of section 27. 1956, c. 32, s. 8, *part*.

Extent of
coverage
by contract

107.—(1) Subject to subsection 4 of this section and to clause *a* of section 116, in any contract to which this Part applies, the contract shall be deemed to cover the insured property,

- (a) against fire (whether resulting from explosion or otherwise) not occasioned by or happening through,
 - (i) in the case of goods, their undergoing any process involving the application of heat,
 - (ii) riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- (b) against lightning, but excluding destruction or loss to electrical devices or appliances caused by lightning

or other electrical currents unless fire originates outside the article itself and only for such destruction or damage as occurs from such fire;

- (c) against explosion (not occasioned by or happening through any of the perils specified in subclause ii of clause a) of natural, coal or manufactured gas in a building not forming part of a gas works, whether fire ensues therefrom or not. 1956, c. 32, s. 9, *part*; 1957, c. 51, s. 5; 1958, c. 42, s. 1 (1).

(2) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion within the meaning of subsection 1. 1958, c. 42, s. 1 (2), *part*. Radio-active contamination

(3) Where property insured under a contract covering at a specified location is necessarily removed to prevent loss or damage or further loss or damage thereto, that part of the insurance under the contract that exceeds the amount of the insurer's liability for any loss incurred covers, for seven days only or for the unexpired term of the contract if less than seven days, the property removed and any property remaining in the original location in the proportions that the value of the property in each of the respective locations bears to the value of the property in them all. Coverage where property removed

(4) Nothing in subsection 1 precludes an insurer giving more extended insurance against the perils mentioned therein, but in that case this Part does not apply to the extended insurance. Extended insurance

(5) An insurer licensed to carry on fire insurance may include in its insurance contracts a clause or endorsement providing that, in the case of live stock insured against death or injury caused by fire or lightning, the word "lightning" is deemed to include other electrical currents. 1956, c. 32, s. 9, *part*. Power to extend meaning of "lightning" in live stock contracts

108. A contract may be renewed by the delivery of a renewal receipt, identifying the policy by number, date or otherwise, or a new premium note. R.S.O. 1950, c. 183, s. 106. Renewal of contract

109. After an application for insurance is made, if it is in writing, any policy sent to the insured shall be deemed to be intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy. 1956, c. 32, s. 10. Form of contract

Mortgagees
and other
payees

110.—(1) Where the loss, if any, under a contract has, with the consent of the insurer, been made payable to a person other than the insured, the insurer shall not cancel or alter the policy to the prejudice of that person without notice to him.

Form of
notice

(2) The length of and manner of giving the notice under subsection 1 is the same as notice of cancellation to the insured under the statutory conditions in the contract. 1956, c. 32, s. 11, *part*.

Statutory
conditions

111.—(1) The conditions set forth in this section shall be deemed to be part of every contract in force in Ontario and shall be printed on every policy with the heading "Statutory Conditions" and no variation or omission of or addition to any statutory condition is binding on the insured.

Interpre-
tation

(2) In this section, "policy" does not include interim receipts or binders.

STATUTORY CONDITIONS

Misrepresentation

1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

Property of Others

2. Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

Change of Interest

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act* or change of title by succession, by operation of law, or by death.

Material Change

4. Any change material to the risk and within the control and knowledge of the insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

Termination of Insurance

5.—(1) The insurance may be terminated:

- (a) subject to the statutory provision relating to cases where loss under the contract has, with the consent of the insurer, been made payable to some person other than the insured, by the insurer giving to the insured at any time fifteen days notice of cancellation by registered mail, or five days notice of cancellation personally delivered, and, if the insurance is on the cash plan, by refunding the excess of premium actually paid by the insured beyond the pro rata premium for the expired time;

- (b) if on the cash plan, by the insured giving written notice of termination to the insurer, in which case the insurer shall, upon surrender of this policy, refund the excess of premium actually paid by the insured beyond the customary short rate for the expired time.

(2) Repayment of the excess premium may be made by money, postal or express company money order, or by cheque payable at par.

(3) If the notice is given by registered letter the repayment shall accompany the notice.

(4) The fifteen days mentioned in clause *a* of subparagraph 1 of this condition commences to run from the day following the receipt of the registered letter at the post office to which it is addressed.

**Requirements
After Loss**

6.—(1) Upon the occurrence of any loss of or damage to the insured property, the insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,

- (a) forthwith give notice thereof in writing to the insurer;
- (b) deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration,
 - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
 - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) showing the amount of other insurances and the names of other insurers,
 - (v) showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
 - (vii) showing the place where the property insured was at the time of loss;
- (c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
- (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.

(2) The evidence furnished under clauses *c* and *d* of subparagraph 1 of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

Fraud

7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

**Who may
give notice
and proof**

8. Notice of loss may be given and proof of loss may be made by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

Salvage

9.—(1) The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.

(2) The insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph 1 of this condition according to the respective interests of the parties.

Entry, Control, Abandonment

10. After loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

Appraisal

11.—(1) If any difference arises as to the value of the property insured, the property saved or the amount of the loss, that value and amount shall, whether the right to recover on the contract is disputed or not, be ascertained by two competent and disinterested appraisers, the insured and the insurer each selecting one, and the two so chosen then selecting a competent and disinterested umpire.

(2) The appraisers together shall then estimate and appraise the loss or damage, stating separately the sound values and damage and, failing to agree, shall submit their differences to the umpire, and the finding in writing of any two determines the value of the property insured, the property saved and the amount of loss.

(3) The parties thereto shall pay the appraisers respectively selected by them and shall bear equally the expense of the appraisal and umpire.

When Loss Payable

12. The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

Replacement

13.—(1) The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

(2) In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

Action

14. Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within one year next after the loss or damage occurs.

Notice

15.—(1) Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or office of the insurer in Ontario or delivered or so sent to any authorized agent of the insurer therein.

(2) Written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his latest post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

112. In case a party fails to name an appraiser under statutory condition 11 of section 111 within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting or dies, a judge of the county or district court of the county or district in which the appraisal is to be made may appoint an appraiser or umpire, as the case may be, upon the application of the insured or of the insurer. 1958, c. 42, s. 2.

Naming of
appraisers
under
statutory
condition 11

113. A contract containing,

Limitation
of liability
clause

- (a) a deductible clause; or
- (b) a co-insurance, average or similar clause; or
- (c) a clause limiting recovery by the insured to a specified percentage of the value of any property insured at the time of loss, whether or not that clause is conditional or unconditional,

shall have printed or stamped upon its face in red ink the words "This policy contains a clause that may limit the amount payable", failing which the clause is not binding upon the insured. 1959, c. 44, s. 4.

114.—(1) Where on the happening of any loss or damage to property insured there is in force more than one contract covering the same interest, each of the insurers under the respective contracts is liable to the insured for its rateable proportion of the loss, unless it is otherwise expressly agreed in writing between the insurers.

Rateable
contribution

(2) For the purpose of subsection 1, a contract shall be deemed to be in force notwithstanding any term thereof that the policy will not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

Effect of
policy may
not be
postponed

(3) Nothing in subsection 1 affects the validity of any divisions of the sum insured into separate items, or any limits of insurance on specified property, or any clause referred to in section 113 or any contract condition limiting or prohibiting the having or placing of other insurance.

Certain
restrictions
valid

(4) Nothing in subsection 1 affects the operation of any deductible clause and,

Ascertain-
ment of
rateable
proportions

- (a) where one contract contains a deductible, the *pro rata* proportion of the insurer under that contract shall be first ascertained without regard to the clause and then the clause shall be applied only to affect the amount of recovery under that contract; and

- (b) where more than one contract contains a deductible, the *pro rata* proportion of the insurers under those contracts shall be first ascertained without regard to the deductible clauses and then the highest deductible shall be pro rated among the insurers with deductibles and these pro rated amounts shall affect the amount of recovery under those contracts. 1956, c. 32, s. 13, *part.*

Idem

(5) Nothing in subsection 4 shall be construed to have the effect of increasing the *pro rata* contribution of an insurer under a contract that is not subject to a deductible clause. 1959, c. 44, s. 5.

Insurance
on identified
articles

(6) Notwithstanding subsection 1, insurance on identified articles is a first loss insurance as against all other insurance. 1956, c. 32, s. 13, *part.*

Relief from
forfeiture

115. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as seem just. 1956, c. 32, s. 15.

Special
stipulations

116. Where a contract,

- (a) excludes any loss that would otherwise fall within the coverage prescribed by section 107; or
- (b) contains any stipulation, condition or warranty that is or may be material to the risk including, but not restricted to, a provision in respect to the use, condition, location or maintenance of the insured property,

the exclusion, stipulation, condition or warranty is not binding upon the insured, if it is held to be unjust or unreasonable by the court before which a question relating thereto is tried. 1956, c. 32, s. 16, *part.*

Waiver of
term or
condition

117.—(1) No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is clearly expressed in writing signed by a person authorized for that purpose by the insurer.

Idem

(2) Neither the insurer nor the insured shall be deemed to have waived any term or condition of a contract by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs, or to the investigation or adjustment of any claim under the contract. 1956, c. 32, s. 16, *part.*

118.—(1) The insurer, upon making a payment or assuming liability therefor under a contract of fire insurance, is subrogated to all rights of recovery of the insured against any person, and may bring action in the name of the insured to enforce such rights. Subrogation

(2) Where the net amount recovered, after deducting the costs of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, that amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. 1956, c. 32, s. 16, *part*. Where amount recovered is not sufficient to indemnify

PREMIUM NOTES AND ASSESSMENTS

119.—(1) Sections 120 to 136 apply only to mutual and cash-mutual fire insurance corporations and, saving sections 121, 122 and 132, to mutual live stock and mutual weather insurance corporations that carry on business on the premium note plan. Application of sections 120 to 136

(2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, live stock and weather insurance. Insurance on premium note plan

(3) Sections 120 to 136 apply only to contracts made in Ontario. R.S.O. 1950, c. 183, s. 114. Application of ss. 120 to 136

120.—(1) The insurer may accept the premium note of the insured for insurance and may undertake contracts in consideration thereof and such notes are subject to cash payments and assessments for the losses, expenses and reserve of the insurer in the manner hereinafter provided. Insurer may accept premium notes

(2) The premium note shall be in the form prescribed by Schedule B. Form of note

(3) Nothing but the notice provided by section 133 shall be written upon the same paper upon which the premium note is written, and a contravention of this section renders the premium note void. R.S.O. 1950, c. 183, s. 115. Premium note

121. The rate to be charged or taken by way of premium note for insuring agricultural property, other than brick, stone or concrete dwellings, shall be not less than \$3 for three years for every \$100 of insurance, and the minimum rate upon other property may be increased or decreased relatively with the risk according to the nature of the property. R.S.O. 1950, c. 183, s. 116. Minimum rates

122.—(1) Subject to subsection 3, the directors shall require at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings, Minimum cash payment

a cash payment on the premium note of not less than 80 cents for three years for every \$100 of insurance and may require a larger or smaller cash payment at the time of the application for the insurance of other property, but not more than 60 per cent of any premium note shall be paid in cash at the time of the application for or of effecting the insurance.

Reduction
by
directors

(2) The cash payment required at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings, may be reduced with the approval of the Superintendent by the directors when and so long as the surplus of the insurer is not less than 25 cents for every \$100 of the total net amount at risk.

Payment
by annual
instalments

(3) Instead of requiring the cash payment to be paid in full at the time of the application for insurance, the directors may make the cash payment payable in three equal annual instalments of not less than 30 cents each for every \$100 of insurance on agricultural property, other than brick, stone or concrete dwellings, and *pro rata* on other property, the first of which shall be due and payable at the time of the application for insurance and the remaining instalments shall be respectively due and payable on the first day of each subsequent year of the term of insurance. R.S.O. 1950, c. 183, s. 117 (1-3).

Interpre-
tation

(4) In this section and in section 123, "surplus" means the assets of the insurer other than the premium note residue after deducting therefrom all liabilities of the insurer (other than contingent liabilities on unmatured contracts) and the proportion of cash payments and instalments thereof paid in advance applicable to unexpired policy contracts calculated as required by subsection 5 of section 76, R.S.O. 1950, c. 183, s. 117 (4); 1953, c. 48, s. 2 (1).

Refund
from
surplus

123.—(1) The directors may declare a refund from surplus,

- (a) if on the effective date of the refund the net surplus of the insurer after deducting the total amount of the refund is, in terms of cents per hundred dollars of net insurance in force, not less than the amount set out in the following table, or, in the case of an insurer with less than \$2,000,000 of net insurance in force, such other amount as is approved by the Superintendent;
- (b) if, except as hereinafter provided, the refund applies on all policies in force on the effective date thereof;
- (c) if the refund on each policy is in the same ratio to the total refund as the face value of the premium note is to the total face value of all premium notes in

force at date of refund, or, that the refund on each policy is a fixed percentage of the annual instalment or of one-third of the cash payment for three years in advance, as the case may be; and

- (d) if the by-laws of the insurer require that refunds be payable only to members insured continuously in the insurer during the three years preceding the effective date of the refund.

TABLE

When the total net amount at risk is greater than \$125,000,000—	\$0.40
When the total net amount at risk is greater than 75,000,000—	.50
When the total net amount at risk is greater than 25,000,000—	.60
When the total net amount at risk is greater than 10,000,000—	.70
When the total net amount at risk is greater than 5,000,000—	.80
When the total net amount at risk is greater than 2,000,000—	1.00

(2) Subsection 1 does not apply to cash-mutual fire insurance corporations, or to an insurer the surplus of which as defined by subsection 4 of section 122 exceeds 10 per cent of the total amount at risk. Application of subs. 1

(3) Subject to the exceptions in subsection 2, subsection 1 applies to any distribution of surplus to members, other than a distribution for the purposes of winding up or re-insurance of the insurer. 1953, c. 48, s. 3. Where subs. 1 to apply

124.—(1) No insurer shall make a contract on the premium note plan covering agricultural property for a term exceeding twelve months without a written application therefor signed by the applicant, or, in case of the absence of the applicant or his inability to make the application, by his agent, other than the agent of the insurer, or by a person having an insurable interest in the property. Written application required

(2) Every written application shall set forth the name, address and occupation of the applicant, the description, location and occupancy of the property to be insured, its value, particulars of any mortgage, lien or other encumbrance thereon, the purpose for which and the location in which any moveable property is deposited or used, particulars of any claims made by the applicant in respect of insured loss or damage by fire, whether any insurer has cancelled any fire insurance policy of or refused fire insurance to the applicant, particulars of any other fire insurance on the same property, and such other information as the insurer or the Superintendent requires. R.S.O. 1950, c. 183, s. 118. Contents of application

125.—(1) The cash payment or instalments thereof required to be paid by section 122 at the time of the application for insurance shall be applied in part payment of the premium note, and the premium note residue is subject to assessments Assessments

by the directors, with the approval of the Superintendent, in such sums and at such times as they determine for reserve and for losses and expenses incurred during the currency of the policies for which the notes were given.

When due

(2) An assessment is due and payable within thirty days after notice stating the amount and date of the assessment has been given in the manner hereinafter provided.

How fixed

(3) An assessment shall be fixed as a percentage of the face amount of the premium note, and all assessments are payable on the same date and at the same rate per cent. R.S.O. 1950, c. 183, s. 119.

Penalty for
default in
payments

126.—(1) Default in making the cash payment or any instalment thereof within thirty days after notice of it becoming due or of its non-payment when due has been given in the manner hereinafter provided, or default in paying any assessment authorized by the directors within thirty days after notice has been given as required by subsection 2 of section 125, unless the directors determine otherwise, renders the contract of insurance void as to all claims for loss occurring during the time of default, but, subject thereto, the contract is revived if and when the cash payment or instalments thereof or the assessment so in default has been paid.

Liability of
insured

(2) Nothing in this Act relieves the insured of his liability to pay the cash payment and all assessments lawfully imposed by the directors during the full term of the policy or within forty days thereafter in respect of which the prescribed notice has been given or prejudices the right of the insurer after giving the required notice to sue for and recover the same with the costs of the suit.

Evidence of
amount due
insurer

(3) Where an action is brought to recover an assessment, the certificate of the secretary of the insurer specifying the assessment and the amount due on the note in respect of such assessment is admissible in evidence as *prima facie* proof thereof in any court. R.S.O. 1950, c. 183, s. 120.

Notice

127.—(1) The notices required to be given by sections 125 and 126 are sufficient if mailed to the person by whom the cash payment, or any instalment thereof, or the assessment, as the case may be, is payable, addressed to his post office address given in the original application, or otherwise given in writing, to the insurer, and, if it states the register number of the contract, the time when, and the place where, the amount is payable.

Notice to
contain
s. 126 (1)

(2) Subsection 1 of section 126 shall be printed in full upon the face of all such notices.

(3) If the property insured has been mortgaged and the insurer has assented to the mortgage, the notices respecting assessments and cash payments required to be mailed to the payee shall also be mailed to the mortgagee if his post office address is known to the insurer, and, if notice is not so given, the contract shall be deemed to be valid and subsisting as to the interest of the mortgagee. R.S.O. 1950, c. 183, s. 121.

Notice to mortgagee

128. Forty days after the expiration of the term of insurance or after the insured has sustained a total loss in respect of the property insured, the premium note given for the term is void except as to the cash payment or instalments thereof remaining unpaid and as to lawful assessments of which the prescribed written notice has been given to the maker of the premium note during the currency of the policy or within such period of forty days, and on the expiration of such period the premium note shall upon application therefor be surrendered to the maker, if all liabilities with which the premium note is chargeable have been paid. R.S.O. 1950, c. 183, s. 122.

Return of premium note on termination of insurance

129. If there is a loss on property insured, the directors may retain out of the insurance money the cash payment or any instalments thereof, or any lawful assessment due and payable and remaining unpaid by the insured. R.S.O. 1950, c. 183, s. 123.

Assessments may be retained out of insurance money

130. The directors may reinsure any risk undertaken on the premium note plan with any other insurer of the same class, and may authorize the execution of a premium note by the proper officer of the insurer, and the insurer in respect of such reinsurance contract has the same rights and is subject to the same obligations as a member of the reinsurer. R.S.O. 1950, c. 183, s. 124.

Reinsurance

131.—(1) Subject to the approval of the Superintendent, the directors of an insurer licensed to transact insurance on the premium note plan may enter into a general reinsurance agreement with any other insurer of the same class for the reinsurance of risks on such terms and conditions as are agreed upon.

General reinsurance agreement

(2) Such agreement may dispense with the issue of policies and the execution of premium notes and may provide for reinsurance on the cash plan.

Policies and notes unnecessary

(3) Such agreement shall be in writing and under the corporate seals of the parties thereto. R.S.O. 1950, c. 183, s. 125.

Writing and seals

132.—(1) Subject to subsection 4, no insurer shall undertake any risk on the premium note plan that is subject to the

Compulsory reinsurance

hazard of a single fire for an amount greater than that allowed by the following table unless the risk is reinsured to an amount sufficient to reduce the net liability of the insurer to the amount authorized in the table:

TABLE

Where the total amount at risk is less than \$5,000,000.	\$4,000
Where the total amount at risk is \$5,000,000 or more but less than \$10,000,000	6,000
Where the total amount at risk is \$10,000,000 or more	8,000

R.S.O. 1950, c. 183, s. 126 (1); 1958, c. 42, s. 3; 1959, c. 44, s. 6 (1).

Meaning
of risk
subject to
hazard of
single fire

(2) A risk subject to the hazard of a single fire shall be deemed to include, in the case of agricultural property, other than brick, stone or concrete dwellings, the total amount at risk on barns, outbuildings, contents, machinery, and all other items in connection therewith except live stock or a dwelling distant more than 80 feet from any other insured farm building, and in all other cases the total amount at risk on buildings or their contents where the buildings are distant less than 80 feet from each other.

Penalty for
failure to
reinsure

(3) Where an insurer fails to reinsure a risk that is subject to the hazard of a single fire and for an amount greater than that allowed by the table set out in subsection 1, the Minister, on the report of the Superintendent, may suspend or cancel the licence of the insurer. R.S.O. 1950, c. 183, s. 126 (2, 3).

Exception
to subs. 1

(4) An insurer may undertake risks on the premium note plan in excess of the amounts authorized by subsection 1 where it has entered into a general reinsurance agreement with other insurers of the same class, approved by the Superintendent, whereby each insurer party to the agreement is provided with reinsurance on a plan covering in whole or in part the amount of losses in excess of its normal loss ratio as determined under the provisions of the plan. 1959, c. 44, s. 6 (2).

Rights of
insured

(5) Nothing in this section renders a contract invalid as against the insured.

Exception

(6) This section does not apply to an insurer that is restricted by its licence to the insurance against fire and lightning of buildings, plant and stock of millers and grain dealers used in connection with the grain trade and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees when and so long as its surplus as defined by subsection 4 of section 122 exceeds 10 per cent of the total amount at risk. R.S.O. 1950, c. 183, s. 126 (4, 5).

Actions in
division
court

133. An action upon a premium note or for an assessment thereon cognizable in a division court may be entered, tried and determined in the court for the division in which the

head office or an agency of the insurer is located, where and where only within the body of the note, or across the face thereof, there was at the time of the making of it printed in conspicuous type, or in ink of a colour different from any other in or on the note, the words following: "An action that may be brought or commenced in a division court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the division court for the division in which the head office or an agency of the insurer is located." R.S.O. 1950, c. 183, s. 127.

134. A premium note does not create a lien upon the land on which the insured property is situate. R.S.O. 1950, c. 183, s. 128. Note not to be a lien on land

135.—(1) An insurer licensed to transact cash-mutual fire insurance may effect insurance upon the cash plan, but the amount of premiums received on cash insurances in any one calendar year shall not exceed four times the amount that the insurer has then on deposit with the Minister. Powers of incorporated insurers to insure on the cash principle

(2) If at any time the amount of such premiums exceeds the amount authorized by subsection 1, the insurer shall at once increase its deposit to an amount sufficient to warrant the excess, and in default the Minister may suspend or cancel its licence. When deposit must be increased

(3) All the property and assets of the insurer, including premium notes, are liable for all losses under contracts of insurance for cash premiums. R.S.O. 1950, c. 183, s. 129. What funds liable for losses

136.—(1) No execution shall issue against a mutual or cash-mutual insurer upon a judgment until after the expiration of sixty days from the recovery thereof, but this section does not apply to a judgment recovered on a contract of insurance where more than 60 per cent of the premium, or premium note, was paid in cash at the time of the insurance or the application therefor. R.S.O. 1950, c. 183, s. 130 (1). When execution upon judgment against insurer

(2) A judge of the Supreme Court or the master after the recovery of a judgment against the insurer, upon the application of the judgment creditor and upon notice to the insurer, may inquire into the facts, and, if he finds that more than 60 per cent of the premium note was paid in cash at the time of the insurance or upon the application therefor, he may direct that execution be issued forthwith upon such judgment. R.S.O. 1950, c. 183, s. 130 (2), *amended*. When order may be made for issue

PART V

LIFE INSURANCE

Interpre-
tation**137.** In this Part, unless the context otherwise requires,

1. "adopted child" means a person who has been adopted by another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;
2. "adopting parent" means a person who has adopted another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;
3. "beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;
4. "child" and "issue" include an adopted child;
5. "contract", "contract of insurance" and "contract of life insurance" mean a contract of life insurance, and include any other contract that an insurer may issue under the authority of a licence to transact life insurance;
6. "court" means the Supreme Court or a judge thereof;
7. "creditor's group life insurance" means life insurance effected by a creditor on the lives of his debtors whereby the lives of the debtors are insured severally under a single contract;
8. "declaration" means an instrument in writing signed by the insured, attached to or endorsed on a policy, or an instrument in writing, signed by the insured in any way identifying the policy or describing the subject of the declaration as the insurance or insurance fund or a part thereof or as the policy or policies of the insured or using language of like import, by which the insured designates or appoints a beneficiary or beneficiaries, or alters or revokes the designation or appointment of a beneficiary or beneficiaries, or apports or reapports, or appropriates or re-appropriates, insurance money between or among beneficiaries;
9. "foreign jurisdiction" means a jurisdiction other than Ontario;

10. "fraternal society" means a society, order or association incorporated for the purpose of making with its members only and not for profit contracts of life, accident or sickness insurance under which benefits may be paid only to its members or their beneficiaries, in accordance with its constitution and laws and the provisions of this Act;
11. "group life insurance" means life insurance, other than creditor's group life insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;
12. "instrument in writing" includes a last will;
13. "insurance" means life insurance;
14. "insurance money" includes all insurance money, benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;
15. "insured" means the person who makes a contract with an insurer;
16. "insurer" includes a corporation, or a society or association, incorporated or unincorporated, a fraternal society or a person or partnership, or an underwriter or group of underwriters, that undertakes or effects, or agrees or offers to undertake or effect, a contract of insurance;
17. "judge" means a judge of the court;
18. "parent", "father" and "mother" include an adopting parent of the same sex respectively;
19. "person" includes a firm, partnership and corporation and an unincorporated society or association;
20. "premium" means the single or periodical payment to be made for the insurance, and includes dues and assessments;
21. "will" includes a codicil. R.S.O. 1950, c. 183, s. 131.

138.—(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to every contract of life insurance made in Ontario after the 1st day of January, 1925, and any term in such a contract inconsistent with this Part is void.

Application
of Part

Idem (2) This Part applies to every contract of life insurance made in Ontario before the 1st day of January, 1925, where the maturity of the contract had not occurred before that date.

Idem (3) This Part applies to every other contract of life insurance made after the 1st day of January, 1925, where the contract provides that this Part applies or that the contract shall be construed or governed by the law of Ontario.

Idem (4) Where this Part applies to a contract, the rights and status of beneficiaries and the powers of the insured with regard to the designation or appointment of beneficiaries and the apportionment of the insurance money is governed by this Part, whether or not the insured or any of the beneficiaries is domiciled in Ontario at the time at which the contract is made, or at any time subsequent thereto.

Exception (5) This section does not apply to a contract of group life insurance. R.S.O. 1950, c. 183, s. 132.

Law applicable in case of group life insurance

139. In the case of a contract of group life insurance, whether made before or after the 30th day of June, 1948,

- (a) the law of the place where the contract was made applies between the insurer and the insured;
- (b) the law of the place where the person whose life is insured was resident at the time his life became insured applies in determining the rights and status of beneficiaries and the rights and obligations of the person whose life is insured. R.S.O. 1950, c. 183, s. 133.

When contract deemed to be made in Ontario

140.—(1) A contract shall be deemed to be made in Ontario,

- (a) if the place of residence of the insured is stated in the application or the policy to be in Ontario; or
- (b) if neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within Ontario at the time of the making of the contract.

Exception

(2) This section does not apply to a contract of group life insurance. R.S.O. 1950, c. 183, s. 134.

THE CONTRACT OF INSURANCE

Policy to evidence a contract

141. Every contract of insurance shall be evidenced by an instrument in writing called, in this Part, a policy. R.S.O. 1950, c. 183, s. 135.

142.—(1) Every policy issued after the 1st day of January, 1925, other than a group life insurance policy, shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance money payable, the manner of payment, the premium, and the facts that determine the maturity of the contract. Contents of policy

(2) Every group life insurance policy shall state the name or sufficient designation of the insured, the method of determining the amount of insurance on each life and the persons or classes of persons whose lives are insured, and the facts that determine the manner and time of payment of the insurance money and the amount of the premium. Contents of group life insurance policy

(3) Every policy shall state the period of grace within which the premiums may be paid and the terms and conditions upon which the policy may, if it lapses, be reinstated, and shall indicate the amount, if any, of cash surrender or loan value and the options, if any, of the insured as to paid up or extended insurance respectively provided by the policy. Terms and conditions

(4) Every policy shall further indicate whether or not it will participate in any surplus or profits that may be declared. Participation

(5) Every policy that includes disability insurance shall further state what notice of disablement shall be given to the insurer. Contents of policy

(6) In the case of a contract of group life insurance made after the 30th day of June, 1948, the insurer shall issue, for delivery by the insured to each person whose life is insured under the policy, a certificate identifying the policy and stating the name or sufficient designation of the person whose life is insured, of his beneficiary, of the insurer, and of the insured, and stating the amount or the method of determining the amount of insurance and indicating any right of the person whose life is insured, upon termination of insurance on his life under the policy. Group life insurance certificates

(7) This section does not apply to a contract of insurance made by a fraternal society. Exception R.S.O. 1950, c. 183, s. 136.

143.—(1) Except as provided in subsection 2, in the case of group life insurance, the employer or other person making the contract with the insurer is the insured for the purposes of this Part. Interpretation

(2) In the case of group life insurance, the term "insured", in the provisions of this Part relating to the designation or appointment of beneficiaries and the rights and status of beneficiaries, means the person whose life is insured. Idem R.S.O. 1950, c. 183, s. 137.

Payment of
policy not
exceeding
\$2,000

144. Where the amount of insurance money, exclusive of dividends and bonus, does not exceed \$2,000, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance money may be paid to any relative by blood or connection by marriage of the person whose life is insured or any other person appearing to the insurer to be equitably entitled to it by reason of having incurred expense for the maintenance, medical attendance or burial of the person whose life is insured or to have a claim against the estate of the person whose life is insured in relation thereto. R.S.O. 1950, c. 183, s. 138.

Invalidity of
terms not set
out in policy

145.—(1) Except in the case of a contract made with a fraternal society, no term or condition of a contract of insurance that is not set out in full in the policy or in a document or documents in writing attached to it, when issued, is valid or admissible in evidence to the prejudice of the insured or a beneficiary.

Subsequent
alterations

(2) Subsection 1 does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

Contract
of fraternal
society

(3) In the case of a contract of insurance made by a fraternal society, the policy, the Act or instrument of incorporation of the society, its constitution and laws and the amendments validly made thereto, and the application for the contract and medical examination of the applicant as signed by him, constitutes the contract between the society and its member. R.S.O. 1950, c. 183, s. 139.

Disclosure
and misrep-
resentation
by insured

146.—(1) The applicant for a contract and the person whose life is to be insured shall each disclose to the insurer in the application for the contract, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination every fact within his knowledge that is material to the contract, and a failure to disclose or misrepresentation of any such fact by either person renders the contract voidable at the instance of the insurer.

Incontest-
ability of
statements

(2) The statements made by the insured, or the person whose life is insured, in the application, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination, other than fraudulent statements or statements erroneous as to age, are deemed to be true and incontestable after the insurance on the person whose life is insured has been in force for two years during his lifetime, but this provision does not apply with respect to disability insurance or double indemnity insurance. R.S.O. 1950, c. 183, s. 140.

147. A failure to disclose or misrepresentation of a fact material to the contract by the insurer renders the contract voidable at the instance of the insured, but, in the absence of fraud, the contract is not by reason of such failure to disclose or misrepresentation voidable after the contract has been in force for two years during the lifetime of the person whose life is insured. R.S.O. 1950, c. 183, s. 141.

Disclosure
and mis-
representa-
tion by
insurer

148. The question of materiality is one of fact. R.S.O. 1950, c. 183, s. 142.

Materiality

149.—(1) Where the age of the person whose life is insured is understated in the application, the insurance money shall be reduced to the amount that would have been payable in respect of the premium stated in the policy at the correct age, according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

Misstate-
ment of age

(2) Where such tables of rates of premium of the insurer do not extend to or include the rates for the correct age of the person whose life is insured, the insurance money shall be reduced in the proportion that the premium at the age stated in the application bears to the premium at the correct age, both premiums for this purpose being the net premiums shown in or deduced from the British Offices' Life Table, 1893, O^{M(5)}, the rate of interest being $3\frac{1}{2}$ per cent per annum, or, at the option of the insurer, both premiums for this purpose being calculated on the same principles as govern the calculation of premiums for ages mentioned in the table of rates of premium of the insurer in force at the time of the issue of the policy.

Calculation
of amount
of benefits
under policy

(3) Where the age of the person whose life is insured is overstated in the application, and the policy does not provide that in that event the insurance money shall be increased, the insurer shall repay the amount by which the premium paid exceeds the premium that would have been payable in respect of the correct age, but, if the policy so provides, the insurance money shall be increased to the amount that would have been payable in respect of the premium stated in the policy at the correct age according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

Where age
overstated

(4) Where, by the terms or for the purposes of the contract, an addition is made to the age stated in the application, and the age is understated in the application, then, for the purpose of the calculation, the correct age and the stated age shall respectively be deemed to be the correct age and the stated age increased by such addition.

What to be
deemed
correct age
and stated
age

Where insurable age expressly limited

(5) Where the application or contract expressly limits the insurable age, and the correct age at the date of the application exceeds the age so limited, the contract, during the lifetime of the person whose life is insured, but not later than five years from the date of the policy, is voidable at the option of the insurer within thirty days after the error comes to its knowledge.

Exception

(6) This section does not apply to a contract of group life insurance. R.S.O. 1950, c. 183, s. 143.

Age

150. If a contract of group life insurance provides that the age of a person whose life is insured affects the commencement or the termination of the insurance or the amount thereof or any other right or benefit under the contract, the true age governs. R.S.O. 1950, c. 183, s. 144.

Conditions precedent to contract taking effect

151.—(1) Unless the contract or the application otherwise expressly provides, the contract does not take effect and is not binding on either party until the policy is delivered to the insured, his assign, or agent, or the beneficiary named therein and payment of the first premium is made to the insurer or its duly authorized agent, no change having taken place in the insurability of the life about to be insured subsequent to the completion of the application.

Effect of default in payment of premium

(2) Subject to section 152, where a cheque, bill of exchange or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of a premium, and the cheque, bill of exchange or promissory note or other written promise to pay is not paid according to its tenor, the contract, unless otherwise provided in the policy, is void. R.S.O. 1950, c. 183, s. 145.

Period of grace for payment of premiums

152.—(1) Where a premium, not being the initial premium, under a contract is unpaid, the insured, his assign or agent, or any beneficiary, may, within a period of grace of thirty days or, in the case of an industrial contract, four weeks from and excluding the day on which the premium is due, pay, deliver or tender to the insurer at its head office, or at its chief agency in Ontario, or to its collector or authorized agent, the sum in default.

Manner of payment

(2) The payment may be made by sending a post office money order, or a cheque payable at par and certified by a bank doing business in Canada under the *Bank Act* (Canada), or a draft of such bank, or a money order of an express company doing business in Ontario, in a registered letter duly addressed to the insurer, and the payment, delivery or tender shall be deemed to have been made at the time of the delivery and registration of the letter at a post office.

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(3) Such payment, delivery or tender has the same effect as if made at the due date of the premium.

Effect of such payment

(4) The period of grace allowed by this section runs concurrently with the period of grace, if any, allowed by the contract for the payment of a premium or of an instalment of premium.

Concurrent period of grace under contract

(5) Upon the maturity of the contract during the period of grace and before the overdue premium is paid, the contract shall be deemed to be in as full force and effect as if the premium had been paid at its due date, but the amount of such premium with interest, not in excess of 6 per cent per annum, and the balance, if any, of the current year's premium, may be deducted from the insurance money.

Contracts deemed to be in force during period of grace

(6) Nothing in this section deprives the insured of the benefit of any period of grace allowed by the contract in excess of the period of grace allowed by this section. R.S.O. 1950, c. 183, s. 146.

Longer period of grace under contract not affected

153.—(1) Where a contract lapses and its cash value has not been paid and any options as to paid up or extended insurance have not been exercised, the insured is entitled to have the contract reinstated upon application within two years, or, in the case of an industrial contract, within one year, from the date of lapse upon the production of evidence of good health and other evidence of insurability of the person whose life was insured satisfactory to the insurer as at the date of the application for reinstatement and upon payment of all overdue premiums and other indebtedness to the insurer under the contract, with interest at such rate not exceeding 6 per cent per annum compounded annually, as the contract provides, and provided that no change has taken place in such good health and insurability subsequently to the date of such application and before the contract is reinstated.

Reinstatement of lapsed contract

(2) Where an application is made to reinstate a contract and the contract is reinstated, section 146 *mutatis mutandis* applies, and the period of two years referred to in subsection 2 of that section runs from the date of reinstatement.

Application of s. 146

(3) If the contract that lapsed provided that in the event of the suicide of the person whose life was insured within a period of time fixed thereby it should be void or that the amount payable thereunder should be reduced, and after the contract is reinstated such person commits suicide within a period of time commencing with the date of reinstatement and of the same duration as the period of time fixed by the contract, the reinstated contract is likewise void, or the amount payable thereunder is likewise reduced.

Suicide

Exception

(4) This section does not apply to a contract of insurance made by a fraternal society or to a contract of group life insurance. R.S.O. 1950, c. 183, s. 147.

Duty of insurer to furnish copy of application

154. The insurer shall, upon request, furnish to the insured a true copy of the application for the insurance. R.S.O. 1950, c. 183, s. 148.

Meaning of "heirs" and like words in contract or declaration

155.—(1) Except in the case of contracts of fraternal societies entered into before the 1st day of January, 1937, where by a contract or declaration the insured appoints as beneficiaries or appoints or apports insurance money to his "heirs", "legal heirs", "lawful heirs" or "next of kin", the appointment or apportionment shall be deemed to be for the benefit of the estate of the insured.

Application of law of domicile

(2) In the case of contracts of fraternal societies entered into before the 1st day of January, 1937, where by a contract or declaration the insured appoints as beneficiaries or appoints or apports insurance money to his "heirs", "legal heirs", "lawful heirs" or "next of kin", the appointment or apportionment shall be deemed to be in favour of the persons provided by the law of the province, state or country in which the insured was domiciled at the time of his death respecting the distribution of the personal property of an intestate, and the insurance money so appointed or apportioned shall be paid to those persons in the shares provided by that law, and the insurance money does not form part of the estate of the insured. R.S.O. 1950, c. 183, s. 149.

Certain persons not to be deemed agents of insured

156. No officer, agent, employee or servant of the insurer or any person soliciting insurance, whether an agent of the insurer or not, shall to the prejudice of the insured be deemed to be for any purpose whatever the agent of the insured in respect of any question arising out of the contract of insurance. R.S.O. 1950, c. 183, s. 150.

INSURABLE INTEREST**Insurable interest in own life**

157. Every person has an insurable interest in his own life. R.S.O. 1950, c. 183, s. 151.

Insurable interest in lives of others

158. Without restricting the meaning that "insurable interest" has in law, each of the following persons has an insurable interest:

1. A parent in the life of his child under twenty-five years of age.
2. A husband in the life of his wife.
3. A wife in the life of her husband.

4. One person in the life of another, upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education.
5. A corporation or other person in the life of its or his officer or employee.
6. A person who has a pecuniary interest in the duration of the life of another person, in the life of that person. R.S.O. 1950, c. 183, s. 152.

159. A contract is void if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest. R.S.O. 1950, c. 183, s. 153.

Contract void without insurable interest

160. Where the insured has at the time at which the contract takes effect an insurable interest in the life insured, it is not necessary for the validity of the contract or an assignment that a beneficiary, or a person claiming under an assignment, or by will or by succession, has an insurable interest. R.S.O. 1950, c. 183, s. 154.

When insurable interest unnecessary

POLICIES ON THE LIVES OF MINORS

161. A minor, after attaining the age of fifteen years, has the capacity of a person of full age,

Capacity of minors

- (a) to effect a contract of insurance on his own life and to deal with the contract;
- (b) to deal with a contract of insurance on his own life effected by him before attaining the age of fifteen years;
- (c) to deal with his interest in a contract of insurance effected on his life by another, whether effected before or after the minor attained the age of fifteen years;
- (d) if married, to effect a contract of insurance on the life of his wife or her husband or his or her children, as the case may be, and to deal with the contract. R.S.O. 1950, c. 183, s. 155.

162.—(1) No insurer shall pay on the death of a child who has not attained the age of five years an amount that alone or together with any amount payable on the death of the child by another insurer exceeds the following amount:

Restriction on insurance on lives of children under five years

1. \$200 if the child dies before attaining the age of one year.
2. \$400 if the child dies after attaining the age of one year but before attaining the age of two years.
3. \$600 if the child dies after attaining the age of two years but before attaining the age of three years.

4. \$800 if the child dies after attaining the age of three years but before attaining the age of four years.
5. \$1,000 if the child dies after attaining the age of four years but before attaining the age of five years.

Where
insurance
excessive

(2) Where the amount payable under a contract on the death of the child, either alone or together with an amount payable under any other contract previously made, is in excess of the maximum amount that may be paid under subsection 1, and the child dies before attaining the age of five years, the amount payable on death in excess of the amount specified in subsection 1 is limited to,

- (a) the amount of any excess premiums paid under the contract; and
- (b) if the insurer has knowingly or without sufficient inquiry entered into the contract, interest at 6 per cent per annum on the excess premiums.

Scale of
benefits to
appear on
circular,
etc.

(3) Every insurer that undertakes insurance on the lives of children who have not attained the age of five years shall print the scale of benefits set out in subsection 1 in conspicuous type upon every circular or advertisement soliciting the insurance, and upon every policy evidencing the insurance.

Exception

- (4) This section does not,
 - (a) apply to a contract under which the insured has a pecuniary interest in the life insured, or that limits the payment on the death of a child who has not attained the age of five years to the premiums that have been paid, with interest at the rate provided in the contract; or
 - (b) preclude the payment of dividends or the repayment of premiums in addition to the amounts specified in subsection 1. R.S.O. 1950, c. 183, s. 156.

THIRD PARTY POLICIES ON LIVES OF MINORS

Third party
policies
on lives of
minors

163.—(1) Where a contract effected on the life of a minor by someone other than the minor, or an agreement in writing between the insurer and the insured respecting such a contract, provides that a person named in the contract or the agreement upon the death of the insured has all the rights and interests of the insured in the contract,

- (a) the contract does not, upon the death of the insured, form part of his estate; and
- (b) the person named pursuant to this section, upon the death of the insured, has all the rights and interests of the insured in the contract and shall be deemed to be the insured.

(2) Notwithstanding a nomination made under this section, the insured may, before his death, deal with the contract as if the nomination had not been made, and may alter or revoke the nomination by agreement in writing with the insurer. R.S.O. 1950, c. 183, s. 157. Saving

BENEFICIARIES

164.—(1) Beneficiaries for value are beneficiaries who have given valuable consideration, other than marriage, and who are expressly stated to be, or described as, beneficiaries for value in the policy or in an endorsement thereon or in a subsequent declaration signed by the insured. Classes of beneficiaries for value

(2) Subject to section 173, preferred beneficiaries are the husband, wife, children, adopted children, grandchildren, children of adopted children, father, mother and adopting parents of the person whose life is insured. Preferred beneficiaries

(3) Ordinary beneficiaries are beneficiaries who are not preferred beneficiaries, beneficiaries for value, or assignees for value. R.S.O. 1950, c. 183, s. 158. Ordinary beneficiaries

165. A beneficiary for value and an assignee for value of a policy has a vested interest in the policy, but, except as regards beneficiaries for value who are expressly stated to be or described as beneficiaries for value in the policy, a beneficiary for value or assignee for value who gives notice in writing of his interest in the policy to the insurer at the head or principal office of the insurer in Canada before any other beneficiary for value or assignee for value has priority of interest as against such last-mentioned beneficiary or assignee. R.S.O. 1950, c. 183, s. 159. Right of beneficiary for value or assignee for value

166. Where a contract is assigned, otherwise than as security for a loan or debt, to the person whose life is insured, that person shall thereupon be deemed to be the insured. R.S.O. 1950, c. 183, s. 160. Appointment of beneficiary

167.—(1) Subject to the rights of beneficiaries for value and assignees for value and to the provisions of this Act relating to preferred beneficiaries, the insured may designate the beneficiary by the contract or by a declaration, and may from time to time by a declaration appoint, appropriate or apportion the insurance money, or alter or revoke a prior designation, appointment, appropriation or apportionment, or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate, and may surrender the contract to the insurer, borrow from the insurer upon the Power of insured to deal with contract by declaration or otherwise

security of the contract, receive the surplus or profits for his own benefit, and otherwise deal with the contract as is agreed upon between him and the insurer.

Payment of
insurance
money

(2) Subject to subsection 1, a beneficiary or a trustee appointed under section 192 may, at the maturity of the contract, enforce for his own benefit or as such trustee the payment of insurance money appointed, appropriated or apportioned to him by the contract or a declaration and in accordance with the terms thereof, but the insurer is entitled to set up any defence that it could have set up against the insured or his personal representatives, and payment made to the beneficiary or trustee discharges the insurer.

Group life
insurance

(3) A person whose life is insured under a contract of group life insurance may in his own name enforce any right stated in the policy to be given to him, subject to any defence available to the insurer against him or the insured.

Effect of
declaration

(4) Subject to subsection 1, a declaration, whether contained in a will or other instrument in writing, has effect from the time of its execution, but a declaration does not affect the interest or rights of a beneficiary for value or assignee for value unless the declaration has been filed with the insurer at its head or principal office in Canada before the time when the beneficiary for value or assignee for value acquired such interest or rights and, if not so filed, the interest or rights of the beneficiary for value or assignee for value are as if the declaration had not been made.

Declaration
in will

(5) In the case of a declaration contained in a will, it is sufficient for the purposes of subsection 4 to file a copy thereof or of the material part thereof verified by statutory declaration.

Other
declarations

(6) A declaration contained in an instrument purporting to be a will that has not been revoked otherwise than by operation of law is effective as a declaration, notwithstanding that the instrument is invalid as a testamentary instrument. R.S.O. 1950, c. 183, s. 161.

Equality
between
beneficiaries

168. Where two or more beneficiaries are designated otherwise than alternatively, but no apportionment is made, they share equally. R.S.O. 1950, c. 183, s. 162.

Disposal of
shares of
deceased
ordinary
beneficiaries

169. Where there are several beneficiaries of whom one or more are ordinary beneficiaries and one or more of the ordinary beneficiaries die before the maturity of the contract, and no apportionment or other disposition of his or their shares is provided for in the contract or by a declaration, the share of such a deceased ordinary beneficiary is payable to the surviv-

ing designated beneficiary or beneficiaries, whether preferred or ordinary, and, if more than one, in equal shares but, if there is no surviving beneficiary, is payable to the insured or his estate. R.S.O. 1950, c. 183, s. 163.

170.—(1) Where the insured, in pursuance of section 167, designates as beneficiary or beneficiaries a member or members of the class of preferred beneficiaries, a trust is created in favour of the designated beneficiary or beneficiaries, and the insurance money, or such part thereof as is or has been apportioned to a preferred beneficiary, is not, except as otherwise provided in this Act, subject to the control of the insured or of his creditors and does not form part of the estate of the insured.

Trust in favour of preferred beneficiaries

(2) The contract may provide or the insured may at any time direct by declaration that a preferred beneficiary is entitled only to the income from insurance money for life or for a period of time or subject to any limitation or contingency stated in the instrument.

Right to income only

(3) This section is subject to any vested rights of beneficiaries for value and assignees for value to the provisions hereinafter contained relating to preferred beneficiaries, and to any contingency or limitation stated in the instrument by which the insured designates a preferred beneficiary, but no provision in an instrument reserving to the insured the right to revoke or abridge the interest of a preferred beneficiary is effective so as to enable the insured to revoke or abridge that interest in favour of a person not in the class of preferred beneficiaries. R.S.O. 1950, c. 183, s. 164.

Proviso

171. Notwithstanding the designation of a preferred beneficiary or beneficiaries, the insured may subsequently exercise the powers conferred by section 167 so as to restrict, limit, extend or transfer the benefits of the contract to any one or more of the class of preferred beneficiaries to the exclusion of any or all others of the class, or wholly or partly to one or more for life or any other term or subject to any limitation or contingency, with remainder to any other or others of the class. R.S.O. 1950, c. 183, s. 165.

Disposal of insurance moneys within class of preferred beneficiaries

172.—(1) Subject to section 174, where by the policy or by a subsequent declaration the insurance money or a part of it is made payable to or for the benefit of the wife of the person whose life is insured, his future wife, his wife and children or his future wife and children generally, or his children generally, the word "wife" means the wife living at the maturity of the contract, and the word "children" includes all the children of the person whose life is insured living at the

Meaning of "wife" and "children" in policy or declaration

maturity of the contract as well as the issue living at the maturity of the contract of any child of his who predeceases him, such issue taking by representation.

Meaning of
"husband"
and "child-
ren" in
policy or
declaration

(2) Subsection 1 applies *mutatis mutandis* to insurance effected by a woman on her life where the insurance money or a part of it is made payable to or for the benefit of her husband or future husband, her husband and children or future husband and children generally, or her children generally.

Proviso

(3) Subsections 1 and 2 do not apply where the beneficiary or beneficiaries is or are designated by name or otherwise definitely indicated. R.S.O. 1950, c. 183, s. 166.

Effect of
adoption on
relationship
of bene-
ficiaries

173. For the purposes of this Part, an adopted child and its adopting parent shall, from the date of the adoption, be deemed to bear towards one another the relationship of preferred beneficiaries, and an adopted child and its natural parents shall, from the date of the adoption be deemed to bear towards one another the relationship of ordinary beneficiaries, and in either case this provision applies in respect of insurance effected both before and after the date of adoption. R.S.O. 1950, c. 183, s. 167.

Disposal of
share of
deceased
preferred
beneficiary;
right to
designate
alternative
beneficiary

174.—(1) Subject to subsection 2, a contract may provide or the insured may at any time direct by declaration that, if a preferred beneficiary dies before the maturity of the contract, the insurance money or a part thereof appointed to the preferred beneficiary is payable to the insured, to his estate, or to any other person, whether that person is within the class of preferred beneficiaries or not.

Where
alternative
preferred
beneficiary
named

(2) Where the contract provides or the insured by a declaration directs that insurance money shall go to a preferred beneficiary and in the event of the death of the preferred beneficiary to some other person in the class of preferred beneficiaries, and the first named beneficiary dies, the insured may, before the maturity of the contract, exercise only the powers referred to in section 171.

Where no
alternative
preferred
beneficiary
named

(3) In case of the death of a preferred beneficiary before the maturity of the contract and in the absence of a provision in the contract or a declaration by which some other person in the class of preferred beneficiaries is to become entitled to the insurance money or a part thereof appointed to the deceased beneficiary in the event of his death or upon the happening of any other event, the insured may deal under section 167 with the insurance money or part thereof in the same manner and to the same extent as if the deceased beneficiary had not been a preferred beneficiary.

(4) Subject to this section, the share of a preferred beneficiary who dies before the maturity of the contract is payable as follows:

Distribution
of share of
deceased
preferred
beneficiary

1. If the deceased beneficiary was a child of the person whose life is insured and has left issue surviving at the maturity of the contract, his share and any share to which he would have been entitled if he had survived is payable to such issue in equal shares, such issue taking by representation.
2. If there is no person entitled under paragraph 1, the share of the deceased beneficiary is payable to the surviving designated preferred beneficiary or beneficiaries in equal shares.
3. If there is no person entitled under paragraph 1 or 2, the share of the deceased beneficiary is payable in equal shares to the wife or husband and the child or children of the person whose life is insured living at the maturity of the contract, and the issue then living of any deceased child of the person whose life is insured, such issue taking in equal shares the share to which his or their parent would have been entitled if living.
4. If there is no person entitled under paragraph 1, 2 or 3, the share of the deceased beneficiary is payable to the insured or his estate. R.S.O. 1950, c. 183, s. 168.

175.—(1) Where the wife or husband of the person whose life is insured is designated as beneficiary and is subsequently divorced, all interest of the beneficiary under the policy passes to the insured or his estate, unless such beneficiary is a beneficiary for value or an assignee for value.

Effect of
divorce of
certain
beneficiaries

(2) Where a divorce has been granted on the application of the beneficiary, the beneficiary is stopped from denying the validity of the divorce for the purpose of this section.

When
deemed
lawfully
divorced

(3) Until the insurer receives at its head or principal office in Canada notice in writing of the Act of Parliament, judgment, decree or order granting the divorce, it may deal with the insurance money in the same manner and with the same effect as if no divorce had been granted, and before paying the insurance money, the insurer is entitled to receive the original judgment, order or decree or a duly verified copy thereof, or a duly verified copy of the Act of Parliament, or a copy thereof printed by the Queen's printer, as the case may be.

Notice of
divorce

Recovery

(4) Nothing in subsection 3 affects the right of a person entitled to payment by virtue of such divorce to recover from a person to whom payment is made by the insurer. R.S.O. 1950, c. 183, s. 169.

Circumstances disentitling wife or husband as beneficiary

176. Where the wife or husband of the person whose life is insured is designated as beneficiary and it appears in the case of the wife that she is living apart from her husband in circumstances disentitling her to alimony or, in the case of the husband, that he is living apart from his wife in circumstances that would disentitle him by the law of England on the 1st day of January, 1951, to an order for restitution of conjugal rights, and that there is no other member of the class of preferred beneficiaries whom the insured may designate as beneficiary in place of the designated beneficiary, the court may, on the application of the insured and on such terms as seem fit, declare the designated beneficiary disentitled to claim the benefit of the provisions of this Part relating to preferred beneficiaries, and the insured may then deal with the policy as provided by section 167. R.S.O. 1950, c. 183, s. 170; 1951, c. 39, s. 6.

Surrender of contract where preferred beneficiary

177.—(1) Where a preferred beneficiary is designated, the insured may surrender the contract to the insurer and accept in lieu thereof any paid up or extended insurance provided by the contract in favour of the preferred beneficiary.

Borrowing on contract where preferred beneficiary

(2) Where a preferred beneficiary is designated, the insured may, from time to time, borrow from the insurer on the security of the contract such sums as are necessary and are applied to keep it in force, and the sums so borrowed, with such interest as is agreed on, are a first charge on the contract and the insurance money. R.S.O. 1950, c. 183, s. 171.

Surplus, and profits

178.—(1) Notwithstanding the designation of a preferred beneficiary, a person who effects a participating contract, other than a contract of group life insurance, may, during his lifetime, receive for his own benefit the surplus or profits declared on the contract or may direct the insurer to apply them in payment or reduction of premiums, or in the purchase of paid-up additions to the sum insured, or to hold them to his credit for accumulation, or to deal otherwise with the surplus or profits as the contract provides, and upon the maturity of the contract, all surplus or profits so held to the credit of the insured, or being due and unpaid, shall, subject to the contract and to any direction by the insured to the contrary, be added to the insurance money and the share of a beneficiary shall be increased accordingly.

Idem

(2) In the case of group life insurance, surplus, profits,

dividends or bonuses shall be applied in accordance with the terms of the contract.

(3) The insurer may apply, for the purpose of keeping the contract in force, any surplus or profits declared on the contract and held by the insurer to the credit of the contract or of the insured, or held for accumulation, and not otherwise applied or dealt with under subsection 1. Insurer may apply surplus to keep contract in force

(4) The insurer is not obliged to pay or apply any surplus or profits in a manner contrary to the terms of the contract or of a subsequent agreement. R.S.O. 1950, c. 183, s. 172. Obligation of insurer

179.—(1) Where all the designated preferred beneficiaries are of full age, they and the insured may surrender the contract or may assign or dispose of it either absolutely or by way of security, to the insurer, the insured or any other person, but, notwithstanding anything herein contained, the insured may exercise the borrowing powers conferred by section 177 without the concurrence of any beneficiary. Dealing with contract with consent of beneficiary

(2) Where the beneficiaries, whether designated by name or not, include the wife or children or grandchildren, it is sufficient, so far as their interests are concerned, if all then living are of full age and join in the surrender, assignment or disposal. Idem

(3) Where insurance money is made payable to a minor or other person under disability or to a trustee on behalf of a minor or person under disability and the insurance money or a part thereof is required for the maintenance or education of the minor or person under disability, the court may, upon the application of the insured, upon at least ten days notice to the insurer, make an order, on such terms as it deems just, permitting the insured to surrender the contract to the insurer, or to borrow from the insurer on the security thereof, and payment by the insurer in accordance with the order discharges it from liability in respect of the payment. Where payable to person under disability, order of court

(4) Where a contract has been assigned as security for a loan or debt, the rights of a beneficiary, whether ordinary or preferred, under the contract are affected only to the extent necessary to give effect to the rights of the assignee, and, when the loan or debt is discharged, the assignee shall furnish a certificate in writing to that effect and that the assignee has no further right, title or interest in the contract. R.S.O. 1950, c. 183, s. 173. Where contract has been assigned

180. Where by a contract or an instrument in writing a person is to become entitled to insurance money only in the event of the death of another person named as a beneficiary, it is not necessary for such first-mentioned person to join in a surrender, assignment or disposal of the contract. R.S.O. 1950, c. 183, s. 174. Consent of contingent beneficiary not necessary

Dealing with
insurance
money
payable in
instalments

181.—(1) Where the insurance money is payable in instalments and the contract, or an instrument in writing signed by the insured and delivered to the insurer, expressly provides that the beneficiary does not have the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not commute the instalments or pay them to any person other than the beneficiary, and the instalments are not, in the hands of the insurer, subject to legal process except in an action to recover for necessities supplied to the beneficiary or his or her infant children.

Exceptions

(2) Notwithstanding subsection 1,

- (a) the insured may, by an instrument in writing signed by him and delivered to the insurer, declare that the beneficiary has the right to commute, or alienate or assign, as the case may be;
- (b) the court may, upon the application of the insurer or the beneficiary, upon at least ten days notice, declare that in view of special circumstances the beneficiary has the right to commute, or alienate or assign, as the case may be;
- (c) after the death of the beneficiary, his personal representatives may commute any instalments payable to them.

Interpre-
tation

(3) In this section, “instalments” includes insurance money or a part thereof held by the insurer under section 182. R.S.O. 1950, c. 183, s. 175.

Insurance
money held
by insurer
subject to
terms of
contract
or other
directions

182. Subject to the provisions of this Part relating to preferred beneficiaries, where it is so expressly provided in the contract or by an agreement in writing with the insurer or by a declaration, the insurer may hold the insurance money or a part thereof after maturity of the contract subject to the order of the beneficiary, or upon such trusts or other agreements for the benefit of the beneficiary as are provided in the contract, agreement or declaration, allowing and paying for the term during which the insurer retains such insurance money or a part thereof, interest thereon at a rate not less than that specified in the contract, agreement or declaration, or, if no rate is agreed upon, at the rate declared from time to time by the insurer in respect of insurance money so held by it, but the insurer is not bound to carry out the terms of any declaration to which it has not agreed in writing. R.S.O. 1950, c. 183, s. 176.

Payments
by insurer
without
notice of
change in
title to
insurance
money

183.—(1) Until the insurer receives at its head or principal office in Canada notice in writing of the making of an order declaring a beneficiary disentitled to insurance money or of an instrument in writing affecting the insurance money or a part thereof or of the appointment or the revocation of the

appointment of a trustee, it may make any payment that would have been lawful and valid except for the order, instrument in writing, appointment or revocation of appointment, and, before making any payment under the order, instrument in writing, appointment or revocation of appointment, it is entitled to receive the original or a true copy thereof.

(2) Nothing in this section affects the right of a person entitled to payment by virtue of such order, instrument in writing, appointment or revocation of appointment to recover from a person to whom payment has been made by the insurer. Proviso R.S.O. 1950, c. 183, s. 177.

184. The insurer does not incur any liability for a default, error or omission in giving or withholding information as to any notice or instrument in writing affecting the insurance money that the insurer has received. Right of insurer to give or withhold information R.S.O. 1950, c. 183, s. 178.

PROOF OF CLAIM AND PAYMENT

185.—(1) The insurer is entitled to reasonably sufficient proof in writing verified by affidavit or statutory declaration of the maturity of the contract, of the age of the person whose life is insured and of the right of the claimant to receive payment of the insurance money. Insurer entitled to certain proof

(2) Where the insurance money or part thereof is payable to or for the benefit of a beneficiary, the insurer is entitled to reasonably sufficient proof of the name and age of the beneficiary. Name and age of beneficiary R.S.O. 1950, c. 183, s. 179.

186.—(1) Insurance money that is expressed to be payable at the maturity of the contract is payable thirty days after reasonably sufficient proof has been furnished to the insurer of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment. Time for payment of insurance money

(2) Except in the case of a contract of group life insurance, insurance money is payable in the province in which the insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, is payable at the head or principal office of the insurer in Canada. Place of payment

(3) In the case of a contract of group life insurance, insurance money is payable in the province in which the person whose life is insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise Idem

than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, is payable at the head or principal office of the insurer in Canada.

Manner of
payment

(4) Every amount to be paid to or by an insurer under a contract is payable in lawful money of Canada, unless the contract expressly provides for payment in another currency.

Meaning of
"dollars"

(5) In every contract, whether the contract by its terms provides for payment in Canada or elsewhere, amounts expressed in dollars mean lawful dollars of Canadian currency, unless some other currency is specifically provided for in the contract. R.S.O. 1950, c. 183, s. 180.

Payments
outside
Canada

187. Where insurance money is payable in respect of a policy on the life of a person who is at the date of his death domiciled elsewhere than in Canada to another person domiciled elsewhere than in Canada, and there is no person in Canada entitled to receive it, the insurer may pay it to the person to whom it is so payable, or to any other person entitled to receive it on his behalf by the law of the domicile of the payee. R.S.O. 1950, c. 183, s. 181.

Application
to court for
declaration
as to
sufficiency
of proofs

188.—(1) Where the insurer admits the validity of the contract but does not admit the sufficiency of the proof furnished by the claimant of the maturity of the contract, or of the age of the person whose life is insured, or of the right of the claimant to receive payment of the insurance money, and where there is no other question in issue, except a question under subsection 2, the insurer or the claimant may, before or after action brought, upon at least thirty days notice, apply to the court for a declaration as to the sufficiency of the proof furnished, and the court may direct what further proof shall be furnished, or in special circumstances, may dispense with further proof.

Declaration
as to
presumption
of death

(2) Where the claimant alleges that the person whose life is insured is presumed to be dead by reason of his not having been heard of for seven years, and where there is no other question in issue except a question under subsection 1, the insurer or the claimant may, before or after action brought, upon at least thirty days notice, apply to the court for a declaration as to the presumption of death.

Effect of
order of
court

(3) If the court finds that the proof of the maturity of the contract or of the age of the person whose life is insured or of the right of the claimant to receive payment is sufficient, or that a presumption of death has been established, or makes an order directing what further proof shall be furnished or in special circumstances dispensing with further proof, the finding

or order of the court is, subject to appeal, conclusive and binding upon the applicant and all parties notified of the application and the court may make such order as to the payment of the insurance money and as to the costs as to it seems just.

(4) The payment by the insurer in accordance with the order discharges it from liability in respect of the payment. Effect of payment

(5) If the court does not find that the proof of the maturity of the contract, of the age of the person whose life is insured, or of the right of the claimant to receive payment is sufficient, or that the presumption of death is established, the court may order that the question or questions in issue be decided in an action brought or to be brought, or may make such other order as to it seems just as to further proof to be furnished by the claimant, as to publication of advertisements, as to further inquiry, and as to costs, or otherwise. Powers of judge

(6) Unless otherwise ordered by the court, the application operates as a stay of any pending action with respect to the insurance money. Stay of proceedings R.S.O. 1950, c. 183, s. 182.

189. Where the person whose life is insured and any one or more of the beneficiaries perish in the same disaster, it is *prima facie* presumed that the beneficiary or beneficiaries died first. Presumption where insured and beneficiary perish in same disaster R.S.O. 1950, c. 183, s. 183.

190. An agreement, express or implied, contained in a contract of life insurance for the payment of insurance money in the event that the person whose life is insured commits suicide is lawful and enforceable. Contract not invalidated by suicide R.S.O. 1950, c. 183, s. 184.

MISCELLANEOUS

191.—(1) Subject to subsections 2 to 4, an action or proceeding against the insurer for the recovery of insurance money may be commenced within one year next after the furnishing of reasonably sufficient proof of the maturity of the contract and of the right of the claimant to receive payment, or within six years next after the maturity of the contract, whichever period first expires, but not afterwards. Limitation of actions

(2) Where an order has been made declaring that death is presumed from the fact that the person whose life is insured has not been heard of for seven years, an action or proceeding may be commenced within one year and six months from the date of the order, but not afterwards. Limitation when death presumed

(3) Where the death of the person whose life is insured is unknown to the person entitled to claim under the contract, an action or proceeding may be commenced within the pre- Limitation where death unknown to claimant

scribed period or within one year and six months after the death becomes known to him, whichever period first expires, but not afterwards.

Limitation
when action
prematurely
brought

(4) Where an action or proceeding is prematurely brought, the plaintiff may commence a new action or proceeding at any time within six months after the final determination of the first action or proceeding. R.S.O. 1950, c. 183, s. 185.

Appoint-
ment of
trustees for
beneficiary
by insured

192.—(1) The powers conferred upon the insured by this Part with regard to the designation or appointment of a beneficiary or beneficiaries, and the alteration or revocation of such designation or appointment, and the apportionment or re-apportionment of insurance money between or among beneficiaries, include power from time to time to appoint a trustee or trustees for any beneficiary or beneficiaries, to revoke such appointment or alter its terms, to appoint a new trustee or trustees, or to make provision for the appointment of a new trustee or trustees.

Effect of
appointment
on
beneficiary

(2) The appointment of a trustee or trustees for a beneficiary does not have the effect of taking away from the court or the insured any power of depriving the beneficiary of the benefit of the insurance money that the court or the insured would have under this Act if the beneficiary had been designated as beneficiary without the appointment of a trustee.

Payment
to trustee

(3) Payment made to the trustee or trustees appointed as hereinbefore provided discharges the insurer. R.S.O. 1950, c. 183, s. 186.

Payment of
share of
persons
under
disability

193.—(1) Where no trustee is appointed to receive the share to which a minor or other person under disability is entitled, or where a trustee is named but refuses or neglects to act or dies or otherwise becomes incapable of acting, the share of the minor or other person under disability may be paid to a guardian or tutor or trustee of the minor or to a curator, committee or trustee of such other person under disability duly appointed under the law of Ontario.

Payment to
parent as
guardian
of minor

(2) Where insurance money not exceeding \$2,000 is payable to the husband and children or to the wife and children, or to the children of the person whose life is insured, and one or more of the children are minors, the court may, if the wife is the mother of such minors, appoint her their guardian or, if the husband is the father of such minors, appoint him their guardian, with or without security, and the insurance money may be paid to him or her as guardian.

Payment to
person
appointed as
guardian by
foreign court

(3) Where it appears that a guardian, tutor, curator, committee or trustee of minors or other beneficiaries under disability has been appointed in a foreign jurisdiction and that

the minors or other beneficiaries are resident in that jurisdiction, the court may authorize payment of the insurance money to the guardian, tutor, curator, committee or trustee with or without security in Ontario. R.S.O. 1950, c. 183, s. 187.

194.—(1) Where the insurer admits liability for the insurance money or a part thereof, and it appears to the insurer that, Payment by insurer into court

- (a) there are adverse claimants; or
- (b) the place of residence of a person entitled is unknown; or
- (c) there is no person capable of giving or authorized to give a valid discharge,

the insurer may, at any time after the expiration of one month from the maturity of the contract, apply to the court for an order for payment of the money into court, and the court may, upon such notice, if any, as it thinks necessary, make an order accordingly, and the application shall in the first instance be made *ex parte*.

(2) Where the insurer admits liability for the insurance money or a part thereof payable to a minor and there is no person capable of giving a valid discharge therefor, the insurer may, at any time after the expiration of one month from the maturity of the contract, pay the money, less the costs mentioned in subsection 3, into court to the credit of the minor. Where beneficiary a minor

(3) The insurer may retain, out of the insurance money for costs incurred upon payment into court in accordance with subsection 2, \$10 if the amount does not exceed \$1,000, and \$15 in other cases, and payment of the remainder into court discharges the insurer. Costs

(4) No order is necessary for payment into court under subsection 2, but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon the payment being made, the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit. R.S.O. 1950, c. 183, s. 188. Procedure for payment in under subs. 2

195. Where the insurer does not, within two months after due proof of the claim, pay the insurance money to some person competent to receive it under this Part or into court, the court may, upon application of any person, order that the insurance money or a part thereof be paid into court or may make such other order as to the distribution of the money as Power of court where insurer fails to pay after proof

to the court seems just, and payment made in accordance with the order is a sufficient discharge to the insurer. R.S.O. 1950, c. 183, s. 189.

Costs of
proceedings
under
ss. 194, 195

196. The court may fix and ascertain without taxation the costs incurred upon or in connection with an application or order made under subsection 1 of section 194 or under section 195 and may order such costs to be paid out of the insurance money or by the insurer or the applicant or otherwise as seems just. R.S.O. 1950, c. 183, s. 190.

Construc-
tion of
Part

197. This Part shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces that enact it. R.S.O. 1950, c. 183, s. 191.

PART VI

AUTOMOBILE INSURANCE

Interpre-
tation

198. In this Part, unless the context otherwise requires,

- (a) "automobile" includes all self-propelled vehicles, their trailers, accessories and equipment, but does not include railway rolling stock, watercraft or aircraft of any kind;
- (b) "automobile insurance" means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, or against loss of or damage to an automobile;
- (c) "contract" includes any writing evidencing a contract, and an oral agreement;
- (d) "driver's policy" means a motor vehicle liability policy insuring a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered in his name;
- (e) "insured" means a person insured by a contract, whether named or not;
- (f) "motor vehicle liability policy" means a policy or that part of a policy insuring the owner or driver of an automobile against liability for loss or damage to persons or property; R.S.O. 1950, c. 183, s. 192, cls. (a-f).

(g) "owner's policy" means a motor vehicle liability policy insuring a person named therein in respect of the ownership, operation or use of an automobile owned by him and specifically described in the policy and in respect of the ownership, operation or use of any other automobile that may be within the definition thereof appearing in the policy; 1951, c. 39, s. 7.

(h) "policy" means the instrument evidencing a contract. R.S.O. 1950, c. 183, s. 192, cl. (h).

199.—(1) This Part applies to automobile insurance and to any insurer carrying on the business of automobile insurance in Ontario and to all contracts made in Ontario on or after the 1st day of September, 1932.

(2) Nothing in this Part prevents the insurance of an automobile against loss or damage by fire under a policy of fire insurance, and in that event this Part does not apply.

(3) This Part, other than section 223, does not apply to insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part. R.S.O. 1950, c. 183, s. 193.

THE APPLICATION

200.—(1) No insurer shall make any contract for a period exceeding fourteen days without a written application therefor, signed by the applicant or his agent, duly authorized in writing.

(2) No person carrying on the business of financing the sale or purchase of automobiles, and no automobile dealer, insurance agent or broker, and no officer or employee of any such person, dealer, agent or broker, shall act as agent of an applicant under this section. R.S.O. 1950, c. 183, s. 194 (1, 2).

(3) Every written application for a driver's policy shall set forth,

- (a) the name, address and occupation or business of the applicant; R.S.O. 1950, c. 183, s. 194 (3), cl. (a).
- (b) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application;
- (c) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;

- (d) whether any licence, permit, registration certificate or other like authority issued to the applicant under a law or statute of any province, state or country relating to automobiles has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and
- (e) such further information as the insurer requires or the Superintendent prescribes. 1951, c. 39, s. 8 (1).

Application
in other
cases

- (4) Every other written application shall set forth,
- (a) the name, address and occupation or business of the applicant;
 - (b) the description of the automobile to be insured as the described automobile;
 - (c) the purchase price to the applicant of the automobile so described;
 - (d) whether purchased new or otherwise;
 - (e) particulars of any mortgage, lien or encumbrance thereon;
 - (f) the place where it is and will usually be kept;
 - (g) the locality in which and the purpose for which it is and will be chiefly used;
 - (h) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application;
 - (i) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;
 - (j) whether any licence, permit, registration certificate or other like authority issued to the applicant or member of his family and household under any law or statute of any province, state or country relating to automobiles has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and
 - (k) such further information as the insurer requires or the Superintendent prescribes. 1951, c. 39, s. 8 (2).

Special
contracts

(5) Where the requirements of subsection 3 or 4 are, in the opinion of the Superintendent, inapplicable to any special form of contract, the Superintendent may prescribe the form of application or vary, omit or add to those requirements.

(6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than 10-point and in red ink, a copy of subsection 1 of section 206. Red ink endorsement

(7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium or the method of rating is changed, the renewal may be effected without a written application. Renewal of contract

(8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer. R.S.O. 1950, c. 183, s. 194 (5-8). Copy of application

201. Where it is proposed to change the subject-matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in that case it shall obtain a written application signed in accordance with section 200 and containing such particulars required by that section as relate to the new subject-matter. R.S.O. 1950, c. 183, s. 195. Amendment of contract

THE POLICY

202.—(1) Every policy shall set forth,

Contents of policy

- (a) the name and address of the insurer;
- (b) the name, address, occupation or business of the insured named therein;
- (c) the premium for the insurance;
- (d) the subject-matter of the insurance;
- (e) the indemnity for which the insurer may become liable;
- (f) the event on the happening of which liability is to accrue;
- (g) the term of the insurance; and
- (h) except in case of motor vehicle liability policies, the name of the person to whom the insurance money is payable.

(2) Unless otherwise expressly stated therein, a written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding standard policy form approved under this Part, and the policy shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, Discrepancy between the application and the policy

and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

Insured
entitled to
copy

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof. R.S.O. 1950, c. 183, s. 196.

Statutory
conditions

203.—(1) Subject to sections 204, 222 and 225,

- (a) the conditions set forth in this section are statutory conditions and shall be deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading "Statutory Conditions";
- (b) no variation or omission of a statutory condition is valid nor is anything contained in any addition to a statutory condition or in the description of the subject-matter of the insurance effective in so far as it is inconsistent with, varies or avoids any such condition. R.S.O. 1950, c. 183, s. 197 (1); 1957, c. 51, s. 6 (1).

Interpre-
tation

(2) In clause *a* of statutory condition 3, "radioactive material" means,

- (a) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor;
- (b) radioactive waste material;
- (c) unused nuclear fuel rods;
- (d) any other radioactive material of such a quality as to be harmful to person or property if its container were destroyed or damaged. 1960, c. 50, s. 1 (1).

STATUTORY CONDITIONS

In these statutory conditions, unless the context otherwise requires, the word "insured" means a person insured by the policy whether named or not.

Material Change in Risk 1. (a) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.

(b) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" shall include:—

Sale

- (i) any change in the insurable interest of the insured named in the policy in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act*;

**Mortgage
or Lien**

and in cases other than motor vehicle liability policies;

(ii) any mortgage, lien or encumbrance affecting the automobile after the application for the policy;

**Other
Insurance**

(iii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.

**Prohibited Use
by Insured**

2.—(1) The insured shall not drive or operate the automobile:

(a) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

(b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the province where he resides at the time the policy is issued; or

(c) for any illicit or prohibited trade or transportation; or

(d) in any race or speed test.

**Prohibited Use
by Others**

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile;

(a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

(b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law; or

(c) for any illicit or prohibited trade or transportation; or

(d) in any race or speed test.

**Uses Prohibited
Without
Permission**

3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used:—

**Explosives or
radioactive
material**

(a) to carry explosives or to carry radioactive material for research, education, development or industrial purposes or for purposes incidental thereto;

**Taxicab
or Bus**

(b) as a taxicab, public omnibus, livery, jitney, or sight-seeing conveyance or for carrying passengers for compensation or hire.

Trailers

4. Unless otherwise provided in this policy, in respect of the indemnity provided therein against liability for loss or damage to persons or property,

(a) an automobile covered by the policy shall not be used for towing a trailer owned by the insured unless like indemnity is also provided by the insurer in respect of the trailer; and

(b) a trailer covered by the policy shall not be towed by an automobile owned by the insured unless like indemnity is also provided by the insurer in respect of the automobile.

**Liability
in War**

5. In cases other than motor vehicle liability policies, the insurer shall not be liable for loss or damage that is caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities, whether war be declared or not, or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.

Loss or Damage to Persons or Property

Insured to Give Notice of Accident and Claim

operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

Co-operation of Insured and Insurer in Claim Settlement

tion and evidence and the attendancy of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

Loss or Damage to the Automobile

Insured to give Notice of Claim

6.—(1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

(2) The insured shall not voluntarily assume any liability or settle any claim except at his own cost. The insured shall not interfere in any negotiations for settlement or in any legal proceeding but, whenever requested by the insurer, shall aid in securing information and the attendancy of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

7.—(1) Upon the occurrence of loss of or damage to the automobile, the insured shall, if the loss or damage is covered by this policy:

(a) forthwith give notice thereof, in writing, to the insurer, with fullest information obtainable at the time, and shall, at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 9;

Proof of Loss

(b) deliver to the insurer within ninety days of the date of the loss or damage a statutory declaration stating, so far as the insured knows or believes, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile, and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

Examination of Insured

(2) The insured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the insurer or its representative, all documents in his possession or control which relate to the matters in question, and shall permit extracts and copies thereof to be made.

Insurer Liable For Cash Value of Automobile

(3) The insurer shall not be liable beyond the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the automobile or any part thereof with material of like kind and quality; provided that in the event of any part of the automobile being obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of such part at the time of loss or damage not exceeding the maker's last list price.

Repairs

(4) Except where an appraisal has been had, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost

with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss; but there can be no abandonment of the automobile to the insurer without its consent. In the event of the insurer exercising such option, the salvage, if any, shall revert to it.

In Case of Disagreement (5) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, such questions shall be determined by appraisers before recovery can be had hereunder, whether the right to recover on the policy is disputed or not, and independently of all other questions.

Appraisal (6) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire. Thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of such repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

Appointment of Appraisers (7) In case either party fails to name an appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, a judge of a superior, county or district court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or of the insurer.

Award (8) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of such loss or damage.

Costs of Appraisal (9) Each party shall pay the appraiser selected by him and shall bear equally the other expenses of the appraisal and of the umpire.

Waiver 8. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

Inspection of Automobile 9. The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

Time and Manner of Payment of Insurance Money 10.—(1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 7, within fifteen days after the award is rendered by the appraisers.

When Action May be brought (2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 6 and 7 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

Limitation of Actions (3) Every action or proceeding against an insurer under a contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose, and not afterwards.

**Who May Give
Notice and
Proofs of Claim**

11. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in the policy in case of absence or inability of such insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for, or in the like case, or if such insured refuses to do so, by a person to whom any part of the insurance money is payable.

Cancellation

12.—(1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) The policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days notice in writing of cancellation by registered post, whether registered within or without Canada, or five days notice of cancellation personally delivered, and refunding the excess of paid premium beyond the *pro rata* premium for the expired time. Repayment of excess premiums may be made by money, money order or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

(3) In this condition, the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

Notice

13. Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in this Province. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. In this condition the expression "registered" shall mean registered within or without Canada.

R.S.O. 1950, c. 183, s. 197, stat. cdns.; 1951, c. 39, s. 9; 1957, c. 51, s. 6 (3); 1960, c. 50, s. 1 (2).

Certain
conditions
not part of
policy

204.—(1) If the policy does not insure against liability for loss or damage to persons or property, statutory condition 6 shall be deemed not to be part of the policy.

Idem

(2) If the policy does not insure against loss of or damage to an automobile, statutory condition 7 shall be deemed not to be part of the policy. R.S.O. 1950, c. 183, s. 198.

Policy to be
approved
by Super-
intendent

205.—(1) No insurer shall issue or deliver a policy in Ontario until a copy of the form of policy has been on file with the Superintendent for at least thirty days, unless sooner approved in writing by him, nor if within that period the Superintendent notifies the insurer in writing that such form of policy is not approved.

Superinten-
dent to give
reasons for
disapproval

(2) The Superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof. R.S.O. 1950, c. 183, s. 199.

206.—(1) Where an applicant for a contract gives false particulars of the described automobile to be insured, to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein or where the insured contravenes a term or condition of the policy or commits a fraud, or makes a wilfully false statement with respect to a claim under the policy, a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited. 1951, c. 39, s. 10.

Misrepresentation or violation of conditions renders claim invalid

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy, unless it is contained in the written application. R.S.O. 1950, c. 183, s. 200 (2).

No defence where statement not in written application

207. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just. R.S.O. 1950, c. 183, s. 201.

Relief from forfeiture

208. Insurance money is payable in Ontario in lawful money of Canada. R.S.O. 1950, c. 183, s. 202.

How policy payable

209. No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part, unless the waiver is stated in writing and signed by an agent of the insurer. R.S.O. 1950, c. 183, s. 203.

Waiver

210.—(1) The insurer, upon making a payment or assuming liability therefor under a contract of automobile insurance, is subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce such rights.

Subrogation

(2) If the net amount recovered, after deducting the costs of such recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, such amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. R.S.O. 1950, c. 183, s. 204.

Where amount recovered is not sufficient to indemnify

211. No red ink shall be used in printing a policy, except for the name, address and emblem of the insurer, the policy number and for the purposes mentioned in this Part. R.S.O. 1950, c. 183, s. 205.

Use of red ink

Rights of
insured
preserved

212. Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any of the provisions of this Part does not render a contract invalid as against the insured. R.S.O. 1950, c. 183, s. 206.

MOTOR VEHICLE LIABILITY POLICIES

Coverage
of owner's
policy,
specific
automobile

213.—(1) Every owner's policy insures the person named therein and every other person who with his consent personally drives an automobile specifically described in the policy against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage,

- (a) arising from the ownership, use or operation of any such automobile in Canada, the continental United States of America, or upon a vessel plying between ports within those countries; and
- (b) resulting from,
 - (i) bodily injury to or death of any person, or
 - (ii) damage to property, or
 - (iii) both.

Idem, other
automobiles

(2) Nothing in subsection 1 precludes coverage being provided in an owner's policy to the person named therein and such other persons as are specified therein who with his consent personally drive any other automobile within the definition thereof appearing in the policy against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage,

- (a) arising from the ownership, use or operation of any such automobile in Canada, the continental United States of America, or upon a vessel plying between ports thereof; and
- (b) resulting from,
 - (i) bodily injury to or death of any person, or
 - (ii) damage to property, or
 - (iii) both. 1951, c. 39, s. 11, *part.*

Death of
person
named in
owner's
policy

(3) In the event of the death of the person named in an owner's policy, the following persons shall be deemed to be the insured under the policy:

1. The spouse of the deceased insured if residing in the same dwelling premises at the time of his death.
2. As respects the specifically described automobile and a newly acquired automobile where the automobile

was acquired by the deceased insured prior to his death, and a temporary substitute automobile, all as defined by the policy,

- i. any person having proper temporary custody thereof until grant of probate or administration to the personal representative of the deceased insured,
- ii. the personal representative of the deceased insured. 1960, c. 50, s. 2.

(4) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. 1951, c. 39, s. 11, *part*. Rights of unnamed insured

214. Every driver's policy insures the person named therein against the liability imposed by law upon such insured for loss or damage, Coverage of driver's policy

(a) arising from the operation or use by him of any automobile, other than an automobile owned by or registered in the name of such insured, while he is personally in control as driver or occupant of such automobile in Canada, the continental United States of America, or upon a vessel plying between ports within those countries; and

(b) resulting from,

- (i) bodily injury to or death of any person, or
- (ii) damage to property, or
- (iii) both. R.S.O. 1950, c. 183, s. 208; 1951, c. 39, s. 12.

215.—(1) Under an owner's policy or a driver's policy, the insurer shall, Additional agreements

- (a) upon receipt of notice of loss or damage caused to persons or property, serve the insured by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as are deemed expedient by the insurer; and
- (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action that is at any time brought against the insured on account of loss or damage to persons or property; and

- (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment that is within the limits of the insurer's liability; and
- (d) in case the injury be to a person, reimburse the insured for outlay for such medical aid as is immediately necessary at the time. R.S.O. 1950, c. 183, s. 209.

Where more
than one
policy

(2) Where a person is insured under more than one motor vehicle liability policy, whether the insurance is first loss insurance or excess, and a question arises under clause *b* of subsection 1 between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its policy, the insured or any insurer may apply to the Supreme Court and the court shall give such directions as appear proper with respect to the performance of the obligation.

Hearing

(3) On an application under subsection 2, the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use of the automobile in respect of which the insurance is provided.

Order

(4) An order under subsection 2 does not affect the rights and obligations of the insurers with respect to payment of any indemnity under their respective policies.

Contribution

(5) Where the insured has indemnity under two or more policies and one or more is or are excess insurance by virtue of section 221, the insurers shall, as between themselves, contribute to the payment of expenses, costs and reimbursement provided for in subsection 1 in accordance with their respective liabilities for damages against the insured. 1951, c. 39, s. 13.

Exceptions
from
liability

216. Subject to section 220, the insurer is not liable under an owner's policy or a driver's policy,

- (a) for any liability imposed by any workmen's compensation law upon the insured; or
- (b) for loss or damage resulting from bodily injury to or the death of,
 - (i) the son, daughter, wife, husband, mother, father, brother or sister of the insured while

being carried in or upon or entering or getting on to or alighting from the automobile, or

(ii) the insured,

or, unless the coverage is expressly extended under section 219,

- (c) to any person, not the owner of the automobile, engaged in the business of an automobile garage, repair shop or service station or as an automobile dealer, for loss or damage sustained while engaged in the operation or repair of the automobile; or
- (d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from the automobile; or
- (e) for loss of or damage to property carried in or upon the automobile or to any property owned or rented by, or in the care, custody or control of, the insured; or
- (f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while engaged in the operation or repair of the automobile,

or, where the coverage is expressly excluded by an endorsement approved by the Superintendent,

- (g) for loss or damage arising from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile with a separate power or heating unit, while at the site of the use or operation of such machinery or apparatus. 1951, c. 39, s. 14; 1954, c. 38, s. 1.

217.—(1) In this section, the expression “nuclear energy hazard” means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act* (Canada). Interpretation
R.S.C. 1952,
c. 11

(2) Where an insured is covered, whether named therein or not, under a policy of automobile liability insurance for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard and is also covered, whether named therein or not, against such loss or damage under a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to such loss or damage, Nuclear
energy
hazard,
liability
where re-
insurance

- (a) the automobile liability insurance is excess to the nuclear energy hazard liability insurance and the

insurer under the policy of automobile liability insurance is not liable to pay beyond the minimum limits prescribed by section 218; and

- (b) the unnamed insured under the policy of nuclear energy hazard liability insurance may, with respect to such loss or damage, recover indemnity under that insurance in the same manner and to the same extent as if named therein as the insured and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

When policy
deemed
in force

(3) For the purpose of this section, a policy of nuclear energy hazard liability insurance shall be deemed to be in force at the time of the event giving rise to the loss or damage, notwithstanding that the limits of liability thereunder have been exhausted. 1960, c. 50, s. 3.

Minimum
liability
under policy

218. Every owner's policy and driver's policy shall insure, in case of bodily injury or death, to the limit of at least \$10,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or the death of any one person, and, subject to such limit, for any one person so injured or killed, of at least \$20,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or death of two or more persons in any one accident, or, in case of property damage, to the limit of at least \$5,000 (exclusive of interest and costs) for damage to property resulting from any one accident. R.S.O. 1950, c. 183, s. 211; 1957, c. 51, s. 7 (1).

Extended
coverage

219.—(1) The insurer may, by an endorsement on the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in the case of an owner's policy or driver's policy in whole or in part in any or all of the following respects, namely, the matters mentioned in clauses *c*, *e* and *f* of section 216.

Idem

(2) The insurer may, by an endorsement on the policy or by provision in the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in whole or in part in the case of an owner's policy or driver's policy in respect of the matter mentioned in clause *d* of section 216.

Idem

(3) The insurer may, in the case of an owner's policy, extend the coverage in whole or in part in respect of the operation or use of automobiles not owned by or registered in the name of the insured.

Idem

(4) The insurer may, in the case of an owner's policy or a driver's policy, extend the coverage to such other matters as the Superintendent approves.

(5) No insurer shall extend the coverage under subsection 3 or 4 without the approval of the Superintendent as to the form of the extended coverage, the method of providing therefor and as to the necessity or otherwise of an additional stated premium for the coverage. 1951, c. 39, s. 15, *part*.

220.—(1) An insurer issuing an owner's policy or a driver's policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree to pay for each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to, or alighting from, the automobile specifically described in the policy or within the definition thereof appearing in the policy, in Canada, the continental United States of America, or upon a vessel plying between ports within those countries, if the automobile is being used by the insured named in the policy or with his consent, all reasonable expenses incurred, within one year from the date of the accident, as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services.

(2) No insurer shall give the insurance under subsection 1 without the approval of the Superintendent as to the terms and conditions thereof. 1951, c. 39, s. 15, *part*.

221.—(1) Subject to subsection 2, if the insured named in a policy has or places any additional or other valid insurance of his interest in the subject-matter of the contract, or any part thereof, the insurer is liable only for its rateable proportion of any loss or damage. 1951, c. 39, s. 15, *part*.

(2) Insurance under a valid owner's policy, as respects the liability arising from the ownership, use or operation of the automobile specifically described in the policy, is a first loss insurance and insurance attaching under any other valid motor vehicle policy is excess insurance only. 1954, c. 38, s. 2.

(3) A copy of subsections 1 and 2 shall be printed or stamped in conspicuous type not less in size than 10-point upon every automobile insurance policy and those subsections constitute terms of the contract between the insurer and the insured and subsection 2 operates as between insurers. 1951, c. 39, s. 15, *part*.

222.—(1) Where any provision of this Part, including any statutory condition, is wholly or partly inapplicable by reason of the requirements of any Act or, in the opinion of the Superintendent, is unsuitable to any special form of contract, he may approve a form of policy sufficient or appropriate to insure the risks required or proposed to be insured.

Idem

(2) Where a form of policy is so approved, the Superintendent shall specify in writing the statutory condition or other provision to which subsection 1 refers and send a copy of the writing to the insurer, and thereafter the contract in the form so approved has effect according to its terms notwithstanding that those terms conflict with or omit the condition or other provision so specified. 1957, c. 51, s. 8.

Application
of insurance
money
under motor
vehicle
liability
policy

223.—(1) Any person having a claim against an insured, for which indemnity is provided by a motor vehicle liability policy, is, notwithstanding that such person is not a party to the contract, entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

Other
creditors
not entitled
to share

(2) No creditor of the insured is entitled to share in the insurance money payable under any such policy in respect of any claim for which indemnity is not provided by the policy.

Insurer
absolutely
liable

(3) (i) No assignment, waiver, surrender, cancellation or discharge of the policy, or of any interest therein or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy, and

(ii) no act or default of the insured before or after such event in contravention of this Part or of the terms of the contract, and

1953-54,
c. 51 (Can.)

(iii) no contravention of the *Criminal Code* (Canada) or of any law or statute of any province, state or country, by the owner or driver of the automobile,

prejudices the right of any person who is entitled under subsection 1 to have the insurance money applied upon his judgment or claim, or be available to the insurer as a defence to such action.

Section
applicable
to purported
policy

(4) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of a insurer, and alleged by a party to the action to be such a policy, is not a motor vehicle liability policy, and this section applies *mutatis mutandis* to the instrument. R.S.O. 1950, c. 183, s. 214 (1-4).

(5) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection 1 to be made parties to the action and to contribute according to their respective liabilities, whether this be rateably or by way of first loss or excess insurance, as the case may be, and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject-matter of the contract.

Contribution among insurers

(6) Subject to subsection 7, where a policy provides or, if more than one policy, the policies provide for coverage in excess of the limits mentioned in section 218 or for extended coverage in pursuance of subsections 1, 2 and 4 of section 219, nothing in this section, with respect to such excess coverage or extended coverage, prevents any insurer from availing itself, as against a claimant, of any defence that the insurer is entitled to set up against the insured. 1951, c. 39, s. 17 (1).

Defence where excess or extended coverage

(7) Where a policy provides for extended coverage in respect of loss or damage resulting from bodily injury to, or the death of, any person being carried in or upon, or entering, or getting on to, or alighting from, an automobile operated in the business of carrying passengers for compensation or hire, subsection 6 applies only to that part of the extended coverage,

Extended coverage, where subs. 6 applies

(a) that exceeds any minimum coverage required by this Act; or

(b) where a greater minimum coverage is required by or under any other Act of, or in force in, Ontario, that exceeds such greater minimum coverage.

(8) The insured is liable to pay or reimburse the insurer, upon demand, any amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

Liability of insured to reimburse insurer

(9) Where an insurer denies liability under a motor vehicle liability policy, it has the right upon application to the court to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action for which it is or might be asserted that indemnity is provided by the policy, whether or not the insured enters an appearance or defence in such action, and, upon being made a third party, the insurer has the right to contest the liability of the insured to any party claiming against the insured, and to contest the amount of any claim made against the insured to the same extent as if a defendant in the action, including for such purpose the right to deliver a statement of defence to the claim of any party claiming against the insured and to deliver other pleadings and to have production and discovery from any party adverse in interest

Insurer may be made third party

and the right to examine and cross-examine witnesses at the trial. R.S.O. 1950, c. 183, s. 214 (7-9).

Idem

(10) An insurer is entitled to avail itself of subsection 9 notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party. 1951, c. 39, s. 17 (2).

Insured to
give notice
of action
and disclose
insurance

224. Every insured against whom an action is commenced for damages occasioned by an automobile shall,

- (a) give notice thereof in writing to the insurer within five days after service of notice or process in the action; and
- (b) disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of the policy within ten days after written demand therefor. R.S.O. 1950, c. 183, s. 215.

POLICIES OTHER THAN MOTOR VEHICLE LIABILITY POLICIES

Partial
payment of
loss clause

225. A policy, other than a motor vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss will pay only an agreed portion of any loss that may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words, "This policy contains a partial payment of loss clause." R.S.O. 1950, c. 183, s. 216.

Claims to
be adjusted
with insured

226. Where a claim is made under a policy, other than a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy. R.S.O. 1950, c. 183, s. 217.

PART VII

ACCIDENT AND SICKNESS INSURANCE

Interpre-
tation

227. In this Part,

- (a) "contract" means a contract of accident insurance or of sickness insurance or of both;
- (b) "creditor's group accident insurance" and "creditor's group sickness insurance" mean, respectively, accident insurance and sickness insurance effected by a

creditor whereby the lives or well-being or the lives and well-being of a number of his debtors are insured severally under a single contract;

- (c) "group accident insurance" and "group sickness insurance" mean, respectively, accident insurance and sickness insurance, other than creditor's group accident insurance and creditor's group sickness insurance, whereby the lives or well-being or the lives and well-being of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;
- (d) "insured" means a person who makes a contract with an insurer;
- (e) "person" includes a firm, partnership or corporation, an unincorporated society or association, and a trade union;
- (f) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, benefits are payable under a contract. 1956, c. 32, s. 17, *part*.

228.—(1) This Part applies to accident insurance and to sickness insurance and to an insurer carrying on the business of accident insurance or sickness insurance or both. Application of Part

(2) This Part does not apply to, Exceptions

- (a) creditor's group accident insurance;
- (b) creditor's group sickness insurance;
- (c) disability insurance;
- (d) double indemnity insurance; or
- (e) insurance provided under section 220.

(3) This Part, except sections 229, 237, 238, 244, 246, 247, 248 and 251, does not apply to group accident insurance or group sickness insurance. 1956, c. 32, s. 17, *part*. Group Insurance

THE CONTRACT

229. A contract shall be evidenced by an instrument in writing called, in this Part, a policy. 1956, c. 32, s. 17, *part*. Policy to evidence contract

230. The policy shall contain the name and address of the insurer, the name of the insured, the name of the person to whom the insurance money is payable, the premium for the insurance, the indemnity for which the insurer may become Contents of policy

liable, the event on the happening of which the liability is to accrue, and the term of the insurance. 1956, c. 32, s. 17, *part*.

Exceptions
or
reductions

231.—(1) Subject to subsections 2, 3 and 4, the statutory conditions in section 232 and section 245, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction or under a heading such as "Exceptions" or "Reductions".

Idem

(2) Where the exception or reduction affects only one provision in the policy, it shall be set forth in that provision.

Idem

(3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.

Where not
applicable

(4) This section does not apply to a policy issued by a fraternal society. 1956, c. 32, s. 17, *part*.

Statutory
conditions

232. Subject to section 233, the conditions set forth in this section shall be deemed to be part of every contract and shall be printed on every policy with the heading "Statutory Conditions".

STATUTORY CONDITIONS

1.—(1) The Contract

This policy, including the endorsements, insertions or riders, if any, and the application for the contract, if attached to the policy, constitutes the entire contract and no agent has authority to change the contract or waive any of its provisions.

(2) Waiver

The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

2. Material Facts

No statement made by the insured on his application for this contract may be used in defence of a claim under, or to avoid, this contract unless it is contained in the written application for the contract and unless a copy of the application, or such part thereof as is material to the contract, is endorsed upon, inserted in or attached to the policy when issued.

3.—(1) Changes in Occupation

If, after this policy is issued, the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this policy, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this policy to an occupation classified by the insurer as less hazardous and so advises the insurer in writing, the insurer shall either

(a) reduce the premium rate, or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation, according to the limits, classification of risks and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

4. Relation of Earnings to Insurance

Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

5. Termination by Insured

The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in Ontario or by delivery thereof to an authorized agent of the insurer in Ontario and the insurer shall, upon surrender of this policy, refund the amount of premium paid in excess of the short rate premium for the expired time according to the table in use by the insurer at the time of termination.

6.—(1) Termination by Insurer

The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the *pro rata* premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given and the ten days begin on the day following the arrival of the notice at the post office to which it is addressed.

7.—(1) Notice and Proof of Claim The insured or his agent, or a beneficiary entitled to make a claim or his agent, shall

(a) give written notice of claim to the insurer

(i) by delivery thereof, or by sending it by registered mail, to the head office or chief agency of the insurer in Ontario, or

(ii) by delivery thereof to an authorized agent of the insurer in Ontario,

not later than thirty days from the date of the accident or the beginning of the disability due to sickness;

(b) within ninety days from the date of the accident or the beginning of the disability due to sickness for which the claim is made, furnish to the insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident or sickness and the loss occasioned thereby; and

(c) if so required by the insurer, furnish a certificate as to the cause and nature of the accident or sickness for which the claim is made and as to the duration of the disability caused thereby, from a medical practitioner legally qualified to practise in Ontario.

(2) **Failure to Give Notice or Proof** Failure to give notice of claim or furnish proof of claim within the time prescribed in this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible and in no event later than one year from the date of the accident or the beginning of the disability due to sickness and if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

8. Insurer to Furnish Forms for Proof of Claim The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time, he may submit his proof of claim in the form of a written statement of the happening and character of the accident or sickness giving rise to the claim and of the extent of the loss.

9. Right of Examination The insurer has the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the person insured when and as often as it reasonably requires while the claim hereunder is pending, and also, in the case of the death of the person insured, to make an autopsy subject to any law of Ontario relating to autopsies.

10. When Moneys Payable Other Than for Loss of Time All moneys payable under this contract other than benefits for loss of time shall be paid by the insurer within sixty days after it has received proof of claim.

11. When Loss of Time Benefits Payable The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payments shall be made thereafter within each succeeding sixty-day period while the insurer remains liable for the payments if the insured, whenever required to do so, furnishes before payment proof of continuing disability.

12. Limitation of Actions An action or proceeding against the insurer for the recovery of a claim under this contract shall not be begun after one year from the date on which the cause of action arose.

1956, c. 32, s. 17, *part.*

Omission or
variation of
conditions

233.—(1) Where a statutory condition is not applicable to the benefits provided by the contract, it may be omitted from the policy or varied so that it will be applicable.

Idem

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

Idem

(3) Statutory conditions 5 and 6 may be omitted from the policy if the contract does not provide that it may be terminated by the insurer.

Idem

(4) Statutory conditions 3, 4, 5, 6 and 9, and statutory condition 7 except, in policies providing benefits for loss of time, clauses *a* and *b* of paragraph 1 thereof, may be varied, but, if by reason of the variation the contract is less favourable to the insured, person insured or beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 232.

(5) Statutory conditions 10 and 11 may be varied by ^{Idem} shortening the periods of time prescribed therein and statutory condition 12 may be varied by lengthening the period of time prescribed therein.

(6) The title of a statutory condition shall be reproduced ^{Idem} in the policy along with the statutory condition but the number of a statutory condition may be omitted.

(7) In the case of a contract made by a fraternal society, ^{Idem}

- (a) the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1 in section 232:

1.—(1) The Contract This policy, the Act or instrument of incorporation of the insurer, its constitution, by-laws and rules, and the amendments made from time to time to its constitution, by-laws or rules, the application for the contract and the medical statement of the applicant constitute the entire contract and no agent has authority to change the contract or waive any of its provisions.

and

- (b) statutory condition 5 in section 232 shall not be printed on the policy. 1956, c. 32, s. 17, *part*.

234. Where a policy of accident insurance is issued through ^{Statutory conditions, notice as to} the agency of a transportation corporation that holds a licence issued under section 315, the statutory conditions set out in section 232 need not be printed on the policy if the policy contains the following notice printed in conspicuous type: "Notwithstanding any other provision herein contained this contract is subject to the statutory conditions respecting contracts of accident insurance." 1956, c. 32, s. 17, *part*.

235.—(1) Where a policy is delivered, the contract is as ^{Delivery of policy} binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who did not have authority to deliver it.

(2) The insurer may deduct the unpaid premium from the ^{Right where premium unpaid} amount for which it may become liable under the contract or may sue the insured therefor.

(3) Where the premium or a part thereof is paid by a ^{Where cheque or note for premium not paid} cheque or a promissory note and the cheque is not paid on presentation or the promissory note is not paid at maturity, the contract is voidable at the option of the insurer.

(4) This section does not apply to a contract made by a ^{Fraternal contracts} fraternal society. 1956, c. 32, s. 17, *part*.

INSURABLE INTEREST

Insurable
interest in
own life and
well-being

236. Every person has an insurable interest in his own life and well-being. 1956, c. 32, s. 17, *part.*

Insurable
interest in
lives and
well-being
of others

237. Without restricting the meaning that "insurable interest" now has in law, each of the following persons has an insurable interest:

1. A parent in the life and well-being of his child under twenty-five years of age.
2. A husband in the life and well-being of his wife.
3. A wife in the life and well-being of her husband.
4. One person in the life and well-being of another upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education.
5. A corporation or other person in the life and well-being of its or his officer or employee.
6. A person who has a pecuniary interest in the duration of the life and continued well-being of another person, in the life and well-being of that person. 1956, c. 32, s. 17, *part.*

Contract
void without
insurable
interest

238.—(1) A contract is void if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest in the person insured.

Group
contracts

(2) Notwithstanding subsection 1, a contract of group accident insurance or of group sickness insurance or of both is valid if it provides benefits solely for the person insured under the contract. 1956, c. 32, s. 17, *part.*

Where insur-
able interest
unnecessary

239. Where the insured has at the time at which the contract takes effect an insurable interest in the person insured, it is not necessary for the validity of the contract or an assignment thereof that a beneficiary, or a person claiming under an assignment, or by will or by succession, has an insurable interest. 1956, c. 32, s. 17, *part.*

POLICIES ON THE LIVES OF MINORS

Capacity
of minors

240. A minor, after attaining the age of fifteen years, has the capacity of a person of full age,

- (a) to effect a contract on his own life or well-being and to deal with the contract;

- (b) to deal with a contract on his own life or well-being effected by him before attaining the age of fifteen years;
- (c) to deal with his interest in a contract effected on his life or well-being by another, whether effected before or after the minor attained the age of fifteen years; and
- (d) if married, to effect a contract on the life or well-being of his spouse or of his children, or of both, and to deal with the contract. 1956, c. 32, s. 17, *part*.

MISREPRESENTATION AND NON-DISCLOSURE

241. The statements made by the insured in his application ^{Statements in application} for the contract are, in the absence of fraud, representations and not warranties. 1956, c. 32, s. 17, *part*.

242.—(1) Except as provided in subsection 2, after a ^{Incontest-ability} contract, including renewals thereof, has been in force for two years with respect to a person insured, every statement made in the written application in respect of that person, other than a fraudulent statement or a statement erroneous as to age, shall be deemed to be true and is incontestable.

(2) Where a claim arises from a loss incurred or a disability ^{Exception} beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim. 1956, c. 32, s. 17, *part*.

243. Where a person insured suffers or has suffered from a ^{Pre-existing conditions} disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not specifically excluded from the insurance,

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force for two years with respect to that person; and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, if the disease or physical condition was disclosed in the written application for the contract. 1956, c. 32, s. 17, *part*.

BENEFICIARIES

Designation of beneficiary **244.**—(1) Where insurance money is payable upon death by accident, the insured, or, in the case of group accident insurance, the person insured, may designate in writing a beneficiary to receive the insurance money or part thereof and may alter or revoke in writing any prior designation.

Death of beneficiary (2) If the beneficiary is not living at the time of the death of the person insured, the insurance money is payable to the insured or his estate, or, in the case of group accident insurance, the estate of the person insured, unless the instrument by which the beneficiary is designated otherwise provides.

Right to sue (3) A beneficiary designated under subsection 1 may upon the death of the person insured enforce for his own benefit the payment of insurance money payable to him and payment to the beneficiary discharges the insurer, but the insurer may set up any defence that it could have set up against the insured, or the person insured in the case of group accident insurance, or the personal representative of either of them. 1956, c. 32, s. 17, *part*.

MISCELLANEOUS

Misstatement of age **245.**—(1) Subject to subsection 2, if the age of the person insured has been misstated, the amounts payable under the contract are those that the premium paid would have purchased if the correct age had been stated.

True age governs (2) Where the age of the person insured affects the commencement or termination of the insurance, the true age governs. 1956, c. 32, s. 17, *part*.

Presumption of death **246.** Where a contract provides for the payment of moneys upon the death by accident of the person insured and the person insured and a beneficiary perish in the same disaster, it shall be *prima facie* presumed that the beneficiary died first. 1956, c. 32, s. 17, *part*; 1957, c. 51, s. 9.

Payment into court **247.**—(1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that,

- (a) there are adverse claimants;
- (b) the place of abode of a person entitled is unknown; or
- (c) there is no person capable of giving and authorized to give a valid discharge, who is willing to do so,

the insurer may apply *ex parte* to the court for an order for payment of the money into court, and the court may upon such notice, if any, as it thinks necessary make an order accordingly.

(2) The court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection 1 and may order the costs to be paid out of the insurance money or by the insurer or otherwise as seems just. Costs of proceedings

(3) A payment made pursuant to an order under subsection 1 discharges the insurer to the extent of the payment. 1956, c. 32, s. 17, *part*. Discharge of insurer

248. Where insurance money is payable to a beneficiary or to the estate of the insured or of the person insured, the insurer may, if the contract so provides, pay an amount not exceeding \$2,000 to, Payments not exceeding \$2,000

- (a) a relative by blood or connection by marriage of the insured or of the person insured; or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of the insured or person insured or to have a claim against the estate of the insured or of the person insured in relation thereto. 1956, c. 32, s. 17, *part*.

249. The insurer shall not, in the policy, give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy. 1956, c. 32, s. 17, *part*. Undue prominence

250. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the claimant or as to any matter or thing to be done or omitted by the insured or claimant with respect to the loss insured against, and a consequent forfeiture or avoidance of the insurance in whole or in part, and a court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just. 1956, c. 32, s. 17, *part*. Relief from forfeiture

251. No officer, agent, employee or servant of the insurer or any person soliciting accident insurance or sickness insurance or both, whether an agent of the insurer or not, shall, to Presumption against agency

the prejudice of the insured or of the person insured, be deemed to be for any purpose whatever the agent of the insured or of the person insured in respect of any question arising out of the contract. 1956, c. 32, s. 17, *part*.

PART VIII

LIVE STOCK INSURANCE

Application
of Part

252. This Part applies to live stock insurance and to any insurer carrying on the business of live stock insurance in Ontario. R.S.O. 1950, c. 183, s. 227.

Property
that may
be insured

253. Every insurer licensed for the transaction of live stock insurance may, within the limits and subject to the conditions prescribed by the licence, insure against loss of live stock, by fire, lightning, accident, disease or other means, except that of design on the part of the insured, or by the invasion of any enemy or by insurrection. R.S.O. 1950, c. 183, s. 228.

Application
of provisions
as to fire
insurance

254. The following provisions of Part IV apply to live stock insurance contracts:

1. The provisions as to the form and contents of the policy.
2. The provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.
3. The provisions relating to premium notes and assessments, other than sections 121, 122 and 132, where the insurance is on the premium note plan. R.S.O. 1950, c. 183, s. 229.

Term of
contract

255.—(1) Contracts of insurance shall not in any case exceed the term of two years.

Renewing
policies

(2) A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the assured paying the required premium or giving his premium note, and all payments or renewal by cash or premium notes must be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy is void.

Premium
note

(3) No premium note taken under a contract of insurance shall exceed 40 per cent or be less than 10 per cent per annum of the sum insured, and no renewal receipt shall extend the contract beyond two years from the date of the policy. R.S.O. 1950, c. 183, s. 230.

PART IX

WEATHER INSURANCE

256. This Part applies to weather insurance and to any insurer carrying on the business of weather insurance in Ontario, but does not apply to weather insurance provided by an endorsement to a contract of fire insurance. R.S.O. 1950, c. 183, s. 231.

257. Every insurer licensed for the transaction of weather insurance may, within the limit and subject to the conditions prescribed by the licence, insure against such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. R.S.O. 1950, c. 183, s. 232.

258.—(1) The following provisions of Part IV apply to weather insurance contracts:

1. The provisions as to the form and contents of the policy.
2. The provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.
3. The provisions relating to premium notes and assessments, other than sections 121, 122 and 132, where the insurance is on the premium note plan. R.S.O. 1950, c. 183, s. 233 (1).
4. The provisions relating to a refund from surplus. 1953, c. 48, s. 4.

(2) The following additional conditions form part of every weather insurance contract:

1. The insurance may be terminated by the insurer by giving seven days notice to that effect.
2. The insurer is not liable for loss or damage occurring to buildings or structures or to their respective contents where the building or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the insurer. R.S.O. 1950, c. 183, s. 233 (2).

259. A contract of weather insurance shall not in any case exceed the term of three years. R.S.O. 1950, c. 183, s. 234.

Premium
note

260. On every premium note taken by the insurer there shall be payable at the commencement of the three-year term of insurance a basic cash payment amounting to at least three-fifths of 1 per cent of the sum insured or *pro rata* where the cash payment is paid in advance for a shorter term, and the premium note shall, as to the balance thereof, be subject to assessment by the directors, and when the amount of insurance in force exceeds \$10,000,000 and the total assets of the company, including premium note residue, do not fall below 2 per cent of the total amount at risk, the basic cash payment may be reduced to three-eighths of 1 per cent of the sum insured for three years or *pro rata* for a shorter term, and when the amount of insurance in force exceeds \$25,000,000 and the total assets of the company, including premium note residue, do not fall below 1½ per cent of the total amount at risk, the Superintendent may authorize a further reduction of the basic cash payment for three years, which shall not be less than three-tenths of 1 per cent of the sum insured or *pro rata* for a shorter term. 1953, c. 48, s. 5.

PART X

FRATERNAL SOCIETIES

Interpre-
tation

261. In this Part,

- (a) "actuary" means a Fellow of the Society of Actuaries, or of the Institute of Actuaries of Great Britain, or of the Faculty of Actuaries in Scotland;
- (b) "rates of contribution" means the regular net premiums, dues, rates or contributions receivable from the members for the purpose of the payment at maturity of the society's certificates or contracts of insurance;
- (c) "society" means a fraternal society. R.S.O. 1950, c. 183, s. 236.

Application
of Part

262.—(1) Subject to subsection 2, this Part applies to all fraternal societies carrying on the business of insurance in Ontario.

Application
of ss. 278-
282 to cer-
tain societies

(2) Sections 278 to 282 do not apply to a fraternal society the membership of which is limited by its constitution or laws to municipal or government employees. R.S.O. 1950, c. 183, s. 237.

263. Fraternal societies required to be licensed under this Act include,

What fraternal societies required to be licensed

- (a) a company, society, association or organization incorporated before the 10th day of March, 1890, under chapter 172 of The Revised Statutes of Ontario, 1887, or a predecessor thereof;
- (b) a society incorporated under chapter 183 of The Revised Statutes of Ontario, 1914, that undertakes insurance against death or a predecessor thereof;
- (c) an association of the civil servants or employees of Canada incorporated by or under the authority of an Act of the Parliament of Canada;
- (d) a fraternal society incorporated after the 1st day of January, 1924, under *The Corporations Act* or a predecessor thereof. R.S.O. 1950, c. 183, s. 238, *revised*. R.S.O. 1960, c. 71

264. No fraternal society shall be licensed,

Cases in which such societies not to be licensed

- (a) if it undertakes insurance contracts with persons other than its own members; or
- (b) except as provided in section 287, if it insures or indemnifies against contingencies other than sickness, accident, disability, death or funeral expenses; or
- (c) if it has upon its books fewer than seventy-five members in good standing; or
- (d) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured; or
- (e) in the case of a fraternal society that has not been authorized to carry on business in Ontario before the 1st day of January, 1925, unless the society files with the Superintendent a declaration of its actuary in the form and to the effect required by subsection 2 of section 277. R.S.O. 1950, c. 183, s. 239; 1952, c. 41, s. 1.

Societies not
deemed to
be fraternal
societies

265. The following shall be deemed not to be fraternal societies within the meaning of this Part and shall not be required or entitled to be licensed as such:

1. Societies known as mutual benefit societies as defined in section 1 and subject to Part XI, including,
 - i. a society incorporated under sections 36 to 41 of chapter 183 of The Revised Statutes of Ontario, 1914, or any Act for which that Act was substituted that does not undertake contracts of life insurance, and
 - ii. a trade union in Ontario that under the authority of its incorporating Act or charter has an insurance or benefit fund for the benefit of its own members exclusively, and
 - iii. a mutual benefit society incorporated after the 1st day of January, 1925, under *The Corporations Act* or a predecessor thereof.
2. Pension fund and employees' benefit societies incorporated under *The Corporations Act* or a predecessor thereof.
3. A corporation not otherwise provided for in this Act that has by or under the authority of an Act of the Parliament of Canada created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition.
4. A corporation not otherwise provided for in this Act that has by or under the authority of an Act of the Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation.
5. A corporation that undertakes or offers to undertake contracts of insurance prohibited by section 264.
6. A corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured.
7. A society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective

R.S.O. 1960,
c. 71

control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years.

8. Any corporation that undertakes contracts of insurance but is not formed exclusively for that purpose and that does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers. R.S.O. 1950, c. 183, s. 240.

266. Clause *b* of section 264 does not apply to contracts guaranteeing the fidelity of officers, servants or employees of the branches or subdivisions of a corporation. 1952, c. 41, s. 2.

Guarantee and endowment insurance

267.—(1) Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Ontario, or a duly authorized provincial representative of the society, such governing body, if incorporated, or such provincial representative of the society may, if the Superintendent thinks proper, be dealt with as the society.

Central body for Ontario or representative may be dealt with

(2) In the case of a fraternal society incorporated elsewhere than in Ontario, the central governing or controlling body in Ontario, if incorporated by virtue of the law of Ontario, may, if the Superintendent thinks proper, be dealt with as the society. R.S.O. 1950, c. 183, s. 242.

When central body for Ontario incorporated

268.—(1) Every fraternal society shall, with its application for licence, file in the office of the Superintendent duly certified copies in duplicate of those articles or provisions of the subsisting constitution, by-laws or rules that contain material terms not set out in the instrument of contract adopted by the society, and shall, from time to time, file in the office of the Superintendent duly certified copies in duplicate of every amendment, revision or consolidation of such articles or provisions of the constitution, by-laws and rules within thirty days after the passing or adoption of the amendment, revision or consolidation.

By-laws and rules to be filed with Superintendent

(2) The Superintendent may, within thirty days after the date of such filing, take exception to any amendment or revision or any part thereof if, in his opinion, the amendment or revision or any part thereof is contrary to this Act, or is actuarially unsound, or is oppressive to or discriminatory in application against any class of the membership of the society, or is unjust or unreasonable.

Superintendent may take exception within 30 days

Notice

(3) If the Superintendent takes exception to any such amendment or revision or any part thereof in accordance with this section, he shall forthwith notify the society thereof in writing and the reasons therefor.

Appeal

(4) The society or any person who deems himself aggrieved by the decision of the Superintendent may appeal therefrom in the manner provided by section 12.

Certified
by-laws and
rules to be
filed with
Provincial
Registrar

(5) The original constitution, by-laws and rules and any amendment, revision or consolidation thereof, to which the Superintendent does not take exception, or that, after the Superintendent has taken exception to an amendment or revision or any part thereof, have been further amended in accordance with the Superintendent's direction, or that, after the Superintendent has taken exception to an amendment or revision or any part thereof, has been approved and confirmed on appeal from the Superintendent as herein provided, shall be certified by the Superintendent to be duly passed by the society as filed, and a copy thereof so certified by the Superintendent shall be filed by him in the office of the Provincial Secretary.

By-laws and
rules as filed
to be binding
on society

(6) The constitution, by-laws or rules and any amendment, revision or consolidation thereof so certified shall, notwithstanding the declaration or other instrument filed under any general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent amendment, revision or consolidation is in like manner certified and filed and so from time to time, and are binding and obligatory upon all members of the society and upon all their beneficiaries and legal representatives and upon everyone entitled to any benefit under any certificate of the society, but the failure of the Superintendent to take exception to any rule of the society or amendment or revision thereof and his certifying and filing of the same does not make valid any provision of such rule that is inconsistent with this Act.

Where
section does
not apply

(7) This section does not apply to the constitution, by-laws and rules of a society or any amendment, revision or consolidation thereof passed and adopted by the society before the 1st day of January, 1925. R.S.O. 1950, c. 183, s. 243.

Where rules
must be
amended

269. Where because of a provision in any of its rules a society otherwise entitled to be licensed ought not, in the opinion of the Superintendent, to be licensed, it is not entitled to a licence until it has repealed or amended such rules in accordance with the direction of the Superintendent. R.S.O. 1950, c. 183, s. 244.

Rules
deliverable
on demand

270.—(1) A copy of all rules of a society relating to its insurance contracts and to the management and application

of its insurance funds shall be delivered by the society to any person requiring it on payment of 25 cents.

(2) An officer or agent of a society who, with intent to mislead or defraud, gives a person a copy of rules other than the rules then in force on the pretence that they are the rules then in force is guilty of an offence. R.S.O. 1950, c. 183, s. 245. Fraudulent delivery

271.—(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, the society may, with the approval of the Superintendent, so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event, but no person who has become entitled, or may become so entitled as aforesaid, to any such annual instalment shall receive payment of it unless at the maturity of each instalment such person has continued to be a member of the society and has paid all dues and assessments adopted by the society. Substitution of instalments for gross payment

(2) All such amendments that have heretofore been or that are hereafter made by a society under its constitution and rules are valid and binding upon all its members and upon all their beneficiaries and personal representatives and upon everyone entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules. Amendments of rules to that intent validated

(3) If a member of the society dies after becoming totally disabled or reaching the stated age, but before the payment of all instalments, the instalments unpaid form part of the insurance money or benefits payable upon the death of such member. When insured dies before receiving all instalments

(4) No unmatured policy or contract of insurance creates any claim or liability against the society while a going society, or against the estate of the society in a winding-up or liquidation, but in a winding-up or liquidation the insured or beneficiary for value under such unmatured policy or contract is entitled to share in the surplus assets of the society. R.S.O. 1950, c. 183, s. 246. Unmatured policies as liabilities

272.—(1) The liabilities of a member under his contract at any date is limited to the assessments, fees and dues that became payable within the preceding twelve months and of which at such date notice had been given in accordance with the constitution and rules of the society. Limitation of member's liability in fraternal society

Withdrawal
of member

(2) A member may at any time withdraw from the society by delivering or sending by registered mail to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection 1.

Release from
liability

(3) After such withdrawal, the member becomes thereby released from all further liability under his contract.

Subject
to rules

(4) This section is subject to any rules to the contrary certified by the Superintendent and filed with the Provincial Secretary as hereinbefore provided. R.S.O. 1950, c. 183, s. 247.

Notice
before
forfeiture
of benefit

273.—(1) No forfeiture or suspension shall be incurred by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates, until after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended, and default has been made by him in paying his contributions or assessment in accordance with such notice.

Interpre-
tation

(2) In subsection 1, "fixed dates" includes any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months.

Saving
rights to re-
instatement

(3) Where under the constitution or rules or by-laws of the society a defaulting member is entitled to be reinstated on payment of arrears, after a stated number of days default, this section does not prejudice the rights of such member. R.S.O. 1950, c. 183, s. 248.

Conditions
of forfeiture
restricted

274.—(1) Where it is stipulated that the benefit of the contract will be suspended or reduced or forfeited for any other reason than for non-payment of money, such condition is not valid unless it is held to be just and reasonable under the circumstances of the case.

Condition
as to
abstinence

(2) In any contract of which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable. R.S.O. 1950, c. 183, s. 249.

How notice
may be
given to
members

275.—(1) Subject to subsection 2, a notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given if written or printed notice is delivered, or is sent by registered mail to the member, or is left at his last known place of abode or of business or by publication in the official paper of the society.

(2) A notice of the reduction of any benefit payable under a contract of insurance or of the increase of the premium payable thereunder shall be sent by registered mail to the member at his last known place of abode or of business. R.S.O. 1950, c. 183, s. 250.

Notice of reduction of benefit, etc.

276. A society incorporated under any Act of the Legislature is not entitled to a licence unless its head office is located and maintained in Ontario and the secretary and treasurer are *bona fide* residents in Ontario. R.S.O. 1950, c. 183, s. 251.

Head offices of Ontario societies

277.—(1) Subject to subsection 4, in addition to the annual statement required to be filed under this Act, each society shall file with the Superintendent, not later than the 1st day of May in each year, a valuation of its certificates or contracts of insurance in force at the last preceding 31st day of December, which valuation shall have regard to the prospective liabilities of the society under its certificates or contracts of insurance and to the rates of contribution to be thereafter received from its members on such certificates according to the rates in force at the date of valuation and shall be made and certified by an actuary appointed by the society and shall include a valuation balance sheet in such form and detail as the Superintendent from time to time prescribes.

Societies to file actuarial report annually

(2) Where in the opinion of the actuary appointed by the society the valuation balance sheet shows that the society is in a position to provide for the payment of its contracts of insurance as they mature without deduction or abatement and without increase in its existing rates of contribution, the society shall file with the Superintendent a declaration of the actuary to that effect.

Society to file declaration of actuary, under what circumstances

(3) A summary of the valuation certified by the actuary and a statement as to the financial condition of the society disclosed by such valuation shall be mailed to each insured member not later than the 1st day of June in each year or in lieu thereof such certified summary of the valuation and statement of the actuary may be published in the society's official paper and a copy mailed to each insured member.

Distribution of summary and statement to members

(4) A fraternal society whose membership is limited by its constitution or laws to municipal or government employees shall not be required to file the valuation mentioned in subsection 1 or to publish the summary thereof mentioned in subsection 3 unless and until required by the Superintendent in writing so to do. R.S.O. 1950, c. 183, s. 252.

Exception as to certain fraternal societies

278.—(1) If it appears to the Superintendent from the statement and reports filed with him or from an examination or valuation made under this Act that the assets of a licensed fraternal society applicable to the payment of its insurance

Where assets of society insufficient

contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the Minister as to the financial condition of the society.

Minister
may request
society to
increase its
rates, etc.

(2) If the Minister after consideration of the report concurs in the opinion of the Superintendent, the Minister shall request the society to make, within such time as he prescribes, but not exceeding four years, such increase in its rates of contribution or such reduction in the benefits payable under its contracts of insurance or otherwise as will enable the society to provide for the payment of its contracts of insurance at maturity.

Society
to act upon
request

(3) On receipt of such request, the society shall take the steps prescribed by its laws or constitution for putting into effect such changes as are approved by the actuary appointed by the society for the purpose aforesaid.

Special
meeting to
consider
request of
Minister

(4) Where in the opinion of the governing executive authority of the society a special meeting of the society is desirable for the purpose of considering the request of the Minister, the authority may call a special meeting of the supreme legislative body of the society upon such notice as the authority deems reasonable and as the Superintendent approves, and such meeting so called shall be deemed to have been regularly constituted notwithstanding anything in its constitution and laws. R.S.O. 1950, c. 183, s. 253.

Reduction
of benefits,
or increase
of rates

279. A fraternal society incorporated under the laws of Ontario may by amendment of its constitution and laws reduce the benefits payable under its contracts of insurance or some of them, or increase the rates of contribution payable by its members as a whole or some class or classes thereof, or make such other changes as are necessary to comply with the aforesaid request of the Minister and such amendments when adopted by a majority of the votes duly cast by the members of the supreme legislative body of the society at a regular or special meeting of the supreme legislative body of the society duly called are binding upon the members of the society and upon their beneficiaries or legal representatives and upon all persons deriving legal rights from any member or beneficiary, notwithstanding anything in its constitution and laws before such amendments or in its Act or instrument of incorporation, or in any contract, policy or certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1950, c. 183, s. 254.

Default of
society in
complying
with request
of Minister

280.—(1) Where a society does not within the time allowed comply with the request of the Minister as prescribed by subsection 2 of section 278, the Superintendent shall report

the default to the Minister, who shall thereupon appoint a readjustment committee of three persons of whom at least one must be an actuary who shall at as early a date as practicable investigate the assets, liabilities, rates of contribution and plans of insurance of the society and prepare a report containing such amendments to the society's constitution and laws reducing the benefits payable under its contracts of insurance or some of them or increasing the rates of contribution payable by its members as a whole or some class or classes thereof, or such other amendments as the readjustment committee deems necessary in order to provide for the payment of all the contracts of insurance of the society as they mature in accordance with the amendments.

(2) The readjustment committee shall file such report in the office of the Superintendent and deliver to the society a certified copy thereof and, immediately upon such report being filed with the Superintendent, the amendments contained therein become part of the constitution and laws of the society and are valid and binding upon all its members and upon their beneficiaries or personal representatives and upon all persons deriving legal rights from any member or beneficiary notwithstanding anything in its constitution and laws before such amendments or in its Act or instrument of incorporation or in any policy or certificate of insurance issued by it.

Amendments in report of committee to be part of society's constitution

(3) The readjustment committee shall in the amendments fix a date not more than six months after the date of filing of the report when the reduction of benefits or increase in the rate of contribution provided for by such amendments will be in full force and effect.

Date to be fixed in report

(4) The society shall bear the expense of the investigation and report and shall furnish the readjustment committee with required information. R.S.O. 1950, c. 183, s. 255.

Expenses

281.—(1) Where a society that is unable to furnish the declaration of an actuary prescribed in subsection 2 of section 277 has heretofore adopted or hereafter adopts new rates of contribution that in the opinion of the actuary appointed by the society, filed with the Superintendent, make reasonable provision for the payment in full at maturity of the contracts of insurance issued to its members who have entered or enter the society upon such new rates of contribution, the society shall, after the payment of the matured contracts of such members, create and from time to time maintain out of the rates of contributions of such members and interest accretions thereto a reserve fund not less than the amount that, with the rates of contributions to be collected from such members, is, in the opinion of the actuary, required to pay in full such con-

Where society unable to furnish declaration of actuary

tracts of insurance as they mature, and such fund shall be a separate fund of the society and is not liable for payment of the debts and obligations of the society under its contracts of insurance with those members who have not contributed to the funds of the society under such new rates of contribution or under subsection 2.

New certificates may be issued

(2) The society may provide in its constitution and laws for the issue of new certificates to members admitted to the society before the establishment of such fund upon such terms and conditions as will, in the opinion of the actuary appointed by the society certified in writing to the Superintendent, enable the society to pay in full the contracts of insurance issued to such members as they mature, and subsection 1 applies to such new certificates.

Annual valuation of actuary, what to show

(3) The annual valuation of the actuary of the society maintaining a separate fund as hereinbefore prescribed shall show clearly and separately and in such detail as the Superintendent requires the financial position of the society in respect of the certificates of insurance included, and those not included, within the scope of the separate fund.

Merger of funds

(4) When a society that has been maintaining a separate fund for new members in accordance with this section files with the Superintendent a declaration of the actuary appointed by the society, the separate fund may, with the approval of the Superintendent, be merged with the other funds of the society of a kindred nature.

Main-tenance of common expense fund

(5) Nothing herein prevents a society that maintains a separate fund as hereinbefore described from maintaining a common expense fund. R.S.O. 1950, c. 183, s. 256.

Society may limit period to twenty years, under what circumstances

282. A society that files with the Superintendent the declaration prescribed by subsection 2 of section 277 or a society that maintains a separate fund for its contracts of insurance as prescribed by section 281 may provide in its constitution and laws for the issue of contracts of life insurance wherein the regular rates of contributions payable thereunder may be limited to a period of twenty or more years, if such rates of contribution have been approved by an actuary and if such certificates of insurance are subject to subsection 1 of section 281, but such limitation of payments does not affect the right of the society to make an assessment or assessments in respect of such certificates in accordance with the constitution and laws of the society either during or after the period of such limited payments. R.S.O. 1950, c. 183, s. 258.

283. In the event of an epidemic or other unforeseen contingency impairing the funds of a society, the governing executive authority of the society may impose a special assessment or special assessments upon the members of the society or upon such class or classes thereof and with such incidence as in the opinion of the governing executive authority is deemed necessary and equitable, and such special assessment or assessments are binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation or its constitution and laws, or in any certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1950, c. 183, s. 259.

Epidemic or
unforeseen
contingency

284. The governing executive authority of a society may make such additional levies from time to time upon all members of the society as are necessary, in the opinion of the governing executive authority, to properly carry on the work of the society and prevent any deficit in its general or expense fund, and such additional levies are binding on its members notwithstanding anything to the contrary in its Act or instrument of incorporation, or in its constitution or laws, or in any certificate of insurance heretofore or hereafter issued by it. R.S.O. 1950, c. 183, s. 260.

General or
expense
fund

285. A society whose valuation balance sheet prescribed by subsection 1 of section 277 shows a surplus of assets of more than 5 per cent over and above all its liabilities may apply the surplus or a part thereof, by way of transfer from the mortuary to the expense fund, by waiver of premium, by bonus additions or otherwise, in any manner that may be approved by the actuary appointed by the society, if a certificate of the actuary is filed with the Superintendent at least thirty days before any application or transfer is made certifying that the proposed application or transfer is authorized by the constitution and laws of the society, that it is fair and reasonable and in the best interests of the society, and that it will not prejudice the ability of the society to pay its contracts of insurance as they mature. R.S.O. 1950, c. 183, s. 261.

Application
of surplus

286. Every licensed fraternal society shall, before putting into effect any new or additional benefits or any new scale of rates of contribution under certificates of insurance, file with the Superintendent a certificate of an actuary approving of such benefits or rates of contribution. R.S.O. 1950, c. 183, s. 262.

Certificate
approving
rates to be
filed

287. A fraternal society licensed under this Act that has filed with the Superintendent for at least three successive years a declaration of an actuary as required by subsection 2 of section 277, if duly authorized by a by-law of the society

Insurance
and annu-
ties in
fraternal
societies

passed on the recommendation of the actuary, may issue to its members,

- (a) endowment or term insurance contracts;
- (b) insurance contracts under which the sum or sums payable on the death of any one person, other than a double indemnity accident benefit, is in excess of \$10,000; and
- (c) annuities of all kinds. 1952, c. 41, s. 3, *part*.

Recommendation of actuary

288. Every by-law referred to in section 287 shall set forth the rates of benefit and indemnity and the amounts of insurance or annuity that may be issued, but such by-law is without effect unless the actuary of the society certifies to the reasonableness of the rates of benefit and indemnity and of the amounts of insurance or annuity having regard to,

- (a) all the conditions and circumstances of their issuance;
- (b) the sufficiency of the rates of contribution therefor; and
- (c) the reasonableness of the loan values, cash values and other equities that may be provided,

and recommends the passing of such by-law. 1952, c. 41, s. 3, *part*.

Societies composed of municipal and government employees

289. Notwithstanding sections 287 and 288, any society whose membership is limited by its constitution or laws to municipal or government employees may undertake annuities on lives in the nature of old age pensions. 1952, c. 41, s. 3, *part*.

Surrender values and other equities

290. A fraternal society licensed under this Act that files with the Superintendent a declaration of an actuary as provided by subsection 2 of section 277 may, if its constitution so provides and subject thereto, grant such surrender values or other equities as are approved by its actuary and authorized by its constitution. R.S.O. 1950, c. 183, s. 265.

Report by Superintendent where assets of certain societies insufficient

291.—(1) If it appears to the Superintendent from the statements and reports filed with him or from an examination or valuation made under this Act that the assets of a licensed fraternal society whose membership is limited by its constitution or laws to municipal or government employees applicable to the payment of its insurance contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special re-

port to the Minister and to the head or responsible officer of the municipality or government of which the members of the society are employees as to the financial condition of the society.

(2) The Superintendent shall not make any order or assume any responsibility for the readjustment of rates and benefits of the society necessary to enable it to provide for the payment of the contracts of insurance of the society at maturity, but a synopsis of his special report shall be reported in his annual report. R.S.O. 1950, c. 183, s. 266.

292. Where the constitution, by-laws or rules of a fraternal society provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from it showing its affairs as at the end of the fiscal year instead of as at the end of the calendar year. R.S.O. 1950, c. 183, s. 267.

PART XI

MUTUAL BENEFIT SOCIETIES

293. Mutual benefit societies required to be licensed under this Act include,

- (a) a society incorporated under sections 36 to 41 of chapter 183 of the Revised Statutes of Ontario, 1914, or a predecessor thereof that does not undertake contracts of life insurance;
- (b) a mutual benefit society incorporated after the 1st day of January, 1925, under *The Corporations Act* or a predecessor thereof. R.S.O. 1950, c. 183, s. 268.

294.—(1) Subject to subsection 2, no mutual benefit society shall be licensed or have its licence renewed,

- (a) if it has upon its books less than seventy-five members in good standing;
- (b) if it insures or indemnifies against contingencies other than sickness, disability or funeral expenses;
- (c) if it contracts for sick benefits for an amount in excess of \$30 per week or for a funeral benefit in excess of \$300;
- (d) if it undertakes insurance contracts with persons other than its own members;

- (e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured;
- (f) if it has charge of or manages or distributes charity or gratuities or donations only. R.S.O. 1950, c. 183, s. 269 (1); 1959, c. 44, s. 7.

Exception

(2) The Minister may, in his discretion, renew the licence of any mutual benefit society notwithstanding that it has upon its books, at the time of application for the renewal, less than seventy-five members in good standing. R.S.O. 1950, c. 183, s. 269 (2).

Application of certain sections

295. Sections 267, 268 and 269 apply *mutatis mutandis* to societies licensed under this Part. R.S.O. 1950, c. 183, s. 270.

Exception as to annual statement

296. Where the constitution, by-laws or rules of a mutual benefit society that grants benefits solely through subordinate lodges or branches provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from it showing its affairs as at the end of its fiscal year instead of as at the end of the calendar year. R.S.O. 1950, c. 183, s. 271.

PART XII

PENSION FUND ASSOCIATIONS

Application of Part

297.—(1) This Part applies to all applications for licence of pension fund associations and to such pension fund associations when licensed under this Act.

Application of certain sections

(2) Subject to the express provisions of this Part, the provisions of this Act applicable to insurers licensed to undertake contracts of life insurance in Ontario, except sections 40 to 73, section 80 and Part V, apply to all pension fund associations. R.S.O. 1950, c. 183, s. 272.

Valuation to be filed

298. In addition to the annual statements required to be filed by every licensed insurer on or before the last day of February in each year, each pension fund association shall file with the Superintendent, in such form and at such times as he requires, a valuation of its certificates or contracts of insurance, which valuation shall have regard to the prospective liabilities of the pension fund association under its cer-

tificates or contracts of insurance, and to the rates of contribution to be thereafter received from its members on such certificates according to the rates of contribution in force at the date of valuation, and shall be made and certified by an actuary appointed by the pension fund association and approved by the Superintendent, and shall include a valuation balance sheet in such form and detail and according to such standards of valuation, having regard to the table of mortality and the rate of interest to be employed, as the Superintendent from time to time prescribes. R.S.O. 1950, c. 183, s. 273.

PART XIII

RECIPROCAL OR INTER-INSURANCE EXCHANGES

299. In this Part, unless the context otherwise requires, ^{Interpre-}tation

(a) "attorney" means a person authorized to act for subscribers as provided in section 302;

(b) "subscribers" means the persons exchanging with each other reciprocal contracts of indemnity or inter-insurance as provided in section 300. R.S.O. 1950, c. 183, s. 274.

300. It is lawful for a person to exchange with other persons in Ontario and elsewhere reciprocal contracts of indemnity or inter-insurance for any class of insurance for which an insurance company may be licensed under this Act, except life insurance, accident insurance, sickness insurance, and guarantee insurance. R.S.O. 1950, c. 183, s. 275. ^{Authority for exchange of reciprocal contracts of insurance}

301. No person shall be deemed to be an insurer within the meaning of this Act by reason of exchanging with other persons reciprocal contracts of indemnity or inter-insurance under this Act. R.S.O. 1950, c. 183, s. 276. ^{Subscriber not to be deemed an insurer}

302.—(1) Reciprocal contracts of indemnity or inter-insurance may be executed on behalf of subscribers by any other person acting as attorney under a power of attorney, a copy of which has been duly filed as hereinafter provided. ^{Execution of contract}

(2) Notwithstanding any condition or stipulation of any such power of attorney or of any such contract of indemnity or inter-insurance, any action or proceeding in respect of any such contract may be maintained in any court of competent jurisdiction in Ontario. R.S.O. 1950, c. 183, s. 277. ^{Who may maintain action in contract}

Declaration
by members
of exchanges

303. The persons constituting the exchange shall, through their attorney, file with the Superintendent a declaration verified by oath, setting forth,

- (a) the name of the attorney and the name or designation under which such contracts are issued, which name or designation must not be so similar to any other name or designation previously adopted by any exchange or by any licensed insurer as in the opinion of the Superintendent to be likely to result in confusion or deception;
- (b) the classes of insurance to be effected or exchanged under such contracts;
- (c) a copy of the form of the contract, agreement or policy under or by which such reciprocal contracts of indemnity or inter-insurance are to be effected or exchanged;
- (d) a copy of the form of power of attorney under which such contracts are to be effected or exchanged;
- (e) the location of the office from which such contracts are to be issued;
- (f) a financial statement in the form prescribed by the Superintendent;
- (g) evidence satisfactory to the Superintendent that it is the practice of the exchange to require its subscribers to maintain in the hands of the attorney, as a condition of membership in the exchange, a premium deposit reasonably sufficient for the risk assumed by the exchange;
- (h) evidence satisfactory to the Superintendent that the management of the affairs of the exchange is subject to the supervision of an advisory board or committee of the subscribers in accordance with the terms of the power of attorney. R.S.O. 1950, c. 183, s. 278.

Form of
licence

304.—(1) Upon an exchange complying with this Part, the Superintendent may issue a licence in accordance with the form in Schedule C hereto.

Deposit

(2) Notwithstanding anything in this Act, the Superintendent may, with the approval of the Minister, require an exchange, as a condition of the issue or renewal of its licence, to deposit approved securities with the Minister in such amount and upon such terms and conditions as the Superintendent deems proper. R.S.O. 1950, c. 183, s. 279.

305. A licence shall not be issued to an exchange to effect or exchange contracts of indemnity or inter-insurance, Evidence required before issue of licence for

(a) against loss by fire, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least seventy-five separate risks in Ontario or elsewhere aggregating not less than \$1,500,000 as represented by executed contracts of *bona fide* applications to become concurrently effective; fire insurance

(b) in respect of automobiles, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least 500 automobiles as represented by executed contracts or *bona fide* applications to become concurrently effective, and that arrangements satisfactory to him are in effect for the reinsurance of all liabilities in excess of such limits as he prescribes. automobile insurance
R.S.O. 1950, c. 183, s. 280.

306. Where the office from which such contracts are to be issued is not in Ontario, service upon the Superintendent of notice or process in any action or proceeding in Ontario in respect of contract of indemnity or inter-insurance effected by the exchange shall be deemed service upon the subscribers who are members of the exchange at the time of the service. Service of process
R.S.O. 1950, c. 183, s. 281.

307. There shall be filed with the Superintendent by the attorney, as often as the Superintendent may require, a statement of the attorney under oath showing, in the case of fire insurance, the maximum amount of indemnity upon any single risk and a statement of the attorney verified by oath to the effect that he has examined the commercial rating of the subscribers of the exchange as shown by the reference book of a commercial agency, having at least 500 subscribers, and that from such examination or other information in his possession it appears that no subscriber has assumed on any single fire insurance risk an amount greater than 10 per cent of the net worth of such subscriber. Statement of maximum indemnity
R.S.O. 1950, c. 183, s. 282.

308.—(1) There shall at all times be maintained with such attorney, as a reserve fund, a sum in cash or approved securities equal to 50 per cent of the annual deposits or advance premiums collected or credited to the accounts of subscribers on contracts in force having one year or less to run, and *pro rata* on those for longer periods. Amount of reserve

Guarantee
fund

(2) Except as hereinafter provided, there shall also be maintained as a guarantee fund or surplus an additional sum, in excess of all liabilities, in cash or approved securities amounting to not less than \$50,000.

Guarantee
fund of fire
insurance
domestic
exchange

(3) In the case of a fire insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall not be less than \$25,000.

Guarantee
fund of
domestic
automobile
insurance
exchange

(4) In the case of an automobile insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall, during the first year of operation of the exchange, be maintained at an amount not less than \$10,000, and thereafter not less than \$25,000.

Deficiency

(5) If at any time the amounts on hand are less than the foregoing requirements, the subscribers or the attorney shall forthwith make up the deficiency.

Use of funds
supplied to
make up
deficiency

(6) Where funds, other than those that accrued from premiums or deposits of subscribers, are supplied to make up a deficiency as herein provided for, such funds shall be deposited and held for the benefit of subscribers under such terms and conditions as the Superintendent requires so long as a deficiency exists, and may thereafter be returned to the depositor.

Interpre-
tation

(7) In this section, "approved securities" means securities that are authorized for investment by section 309. R.S.O. 1950, c. 183, s. 283.

Investment
of surplus
funds and
reserve

R.S.O. 1960,
c. 71

309.—(1) If the principal office of the exchange is in Ontario, the surplus insurance funds and the reserve fund of the exchange shall be invested in the class of securities authorized by *The Corporations Act* for the investment of the reserve funds of a joint stock insurance company incorporated thereunder.

Evidence as
to invest-
ments

(2) If the principal office of the exchange is outside Ontario, it shall be a condition precedent to the issue of a licence under this Act that evidence satisfactory to the Superintendent is filed with him showing that the class of security in which funds of the exchange are required by law to be invested, and are in fact invested, is within the limits of investment prescribed for the investment of the reserve funds of an insurance corporation by the jurisdiction in which the office of the exchange is situate. R.S.O. 1950, c. 183, s. 284.

Contracts
for sub-
scribers only

310.—(1) No exchange shall undertake any liability on a contract of indemnity, inter-insurance or insurance except on behalf of a subscriber.

(2) No attorney or exchange shall effect reinsurance of any risks undertaken by the exchange in any licensed reciprocal or inter-insurance exchange unless such exchange operates on the same underwriting standards. R.S.O. 1950, c. 183, s. 285.

Reinsur-
ance in
another
exchange

311.—(1) No person shall act as attorney, or for or on behalf of an attorney, in the exchange of reciprocal contracts of indemnity or inter-insurance, or in acts or transactions in connection therewith, until a licence has been issued and is in force.

Attorney
not to act
until licence
granted

(2) Every person who, in contravention of subsection 1, undertakes or effects or agrees or offers to undertake or effect an exchange of reciprocal contracts of indemnity or inter-insurance, or any act or transaction in connection therewith, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1950, c. 183, s. 286.

Offence

312.—(1) Where a licensed exchange or attorney contravenes any provision of this Act, the licence of the exchange may be suspended or revoked by the Minister on the report of the Superintendent after due notice and opportunity for a hearing before the Superintendent has been given to the exchange or its attorney, but the suspension or revocation does not affect the validity of any reciprocal contracts of indemnity or inter-insurance effected prior thereto or the rights and obligations of subscribers under such contracts.

Suspension
or
revocation
of licence

(2) Notice of such suspension or revocation shall be given by the Superintendent in at least two successive issues of *The Ontario Gazette* as soon as reasonably may be after the suspension or revocation. R.S.O. 1950, c. 183, s. 287.

Notice

313. The attorney shall, on or before the 1st day of March in each year, pay to the Treasurer of Ontario for the use of Ontario an annual tax equal to 2 per cent of the gross premiums or deposits collected from subscribers in respect of risks located in Ontario during the preceding calendar year after deducting returns for cancellations, considerations for reinsurances with licensed insurers and all amounts returned to subscribers or credited to their accounts as savings during such year. R.S.O. 1950, c. 183, s. 288.

Annual tax

314. Notwithstanding anything in this Act, any person may insure against fire any property situated in Ontario in an exchange not licensed under this Act, and any property so insured or to be insured may be inspected and any loss incurred in respect thereof adjusted, if such insurance is effected outside Ontario and without any solicitation in Ontario directly or indirectly on the part of the insurer. R.S.O. 1950, c. 183, s. 289.

Fire insur-
ance in
unlicensed
exchanges
may be
effected
outside
Ontario

PART XIV

AGENTS, BROKERS AND ADJUSTERS

LICENCES OF INSURANCE AGENTS

Licensing
agent

315.—(1) The Superintendent may issue to any person who has complied with this Act a licence authorizing such person to carry on business as an insurance agent subject to this Act, to the regulations and to the terms of the licence. R.S.O. 1950, c. 183, s. 290 (1); 1958, c. 42, s. 5 (1).

Classifica-
tion

(2) Licences so issued shall be of two classes, that is,

(a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or

(b) licences for any classes of insurance other than life insurance.

Issue of
licence

(3) Upon written notice to the Superintendent that a licensed insurer has appointed a person to act as his agent in Ontario and upon due application of such person and payment by him of the prescribed fee, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence and intends to hold himself out publicly and carry on business in good faith as an insurance agent, issue to the applicant a licence that shall state in substance that the holder is, during the term of the licence, authorized to carry on in Ontario the business of an insurance agent.

Notice of
appointment
of agent

(4) Such notice of appointment by an insurer shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the insurer to act as agent in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving the name, age, residence and present occupation of the applicant and his occupation for the five years next preceding the date of the notice and particulars of any other employment in which he is engaged and such other information as the Superintendent requires.

Limitations
of licence

(5) Where the applicant is the appointee of an insurer carrying on in Ontario the business of life insurance, or life and accident insurance, or life and accident and sickness insurance, the licence shall expressly limit the authorization of the agent to the class of insurance for which the insurer is licensed, and, where the applicant is the appointee of an insurer carrying on in Ontario any class or classes of insurance business other than life insurance, the licence shall expressly exclude the business of life insurance, but nothing herein prevents the

issue to the same applicant of two licences including all classes of insurance if due application has been made for two licences.

(6) Where the agency, upon notice of which a licence is issued, is terminated, notice in writing shall forthwith be given by the insurer to the Superintendent of the termination, with the reason therefor, and thereupon the licence is *ipso facto* suspended, but it may be revived subject to the approval of the Superintendent upon filing of notice of a new agency appointment and upon payment of a fee of \$1. Notice of termination of agency

(7) An insurer who fails to notify the Superintendent within thirty days of the termination of an agency appointment as required by subsection 6 is guilty of an offence. R.S.O. 1950, c. 183, s. 290 (2-7). Failure to give notice

(8) A licence issued under this section or section 316 may be revoked by the Superintendent if, after due investigation and a hearing, he determines that the holder of the licence, Revocation

- (a) has contravened any provision of this Act or the regulations in his operations as an insurance agent; or
- (b) has made a material misstatement in the application for the licence; or
- (c) has been guilty of a fraudulent practice; or
- (d) has demonstrated his incompetency or untrustworthiness to transact the insurance agency business for which the licence was granted, by reason of anything done or omitted in or about such business under the authority of the licence; or
- (e) has employed upon salary or otherwise any person whose application for licence as an insurance agent has been refused or whose licence has been revoked or suspended under this Part without having first obtained the written approval of the Superintendent. R.S.O. 1950, c. 183, s. 290 (8); 1951, c. 39, s. 19 (1); 1958, c. 42, s. 5 (2).

(9) In determining the granting or refusal of an application for a licence or renewal of licence, or the revocation of an existing licence under this section or section 316, the Superintendent may, and shall when so requested in writing by the applicant or licensee, appoint an advisory board consisting of, Advisory board to hold hearing and report

- (a) a representative of insurers;
- (b) a representative of agents; and
- (c) a representative of the Superintendent,

which shall hold a hearing and make a report to the Superintendent with such recommendation as it deems fit. R.S.O. 1950, c. 183, s. 290 (9); 1951, c. 39, s. 19 (2).

Chairman
of board

(10) The representative of the Superintendent upon the advisory board shall act as chairman and, for the purposes of his duties in connection with the investigation and hearing contemplated by subsection 9, has the same powers as are vested in the Superintendent by section 4. R.S.O. 1950, c. 183, s. 290 (10).

Term and
renewal of
licence

(11) A licence issued hereunder expires at such time as the regulations provide unless automatically suspended by notice under subsection 6 or unless revoked or suspended by the Superintendent; but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he requires, accompanied by a certificate of agency appointment of a licensed insurer and payment of the prescribed fee, without requiring anew the detailed information hereinbefore specified.

Authority
of agents

(12) The holder of a licence under this section as agent for insurance other than life insurance may, during the term and validity of his licence, act as agent for any licensed insurer within the limits prescribed by his licence, and may act as an insurance broker in dealing with licensed insurers without other or additional licences but may not act as agent or broker directly, or indirectly through a broker licensed for business with unlicensed insurers under section 319 or otherwise, in dealing with unlicensed insurers.

Authority of
life insur-
ance agents

(13) No life insurance agent shall be licensed to act as agent for more than one insurer transacting life insurance, and the name of such insurer shall be specified in the licence, and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer, but where such an agent is unable to negotiate insurance on behalf of an applicant for insurance with the insurer for which he is the authorized agent, such agent has the right to procure such insurance from another insurer if such other insurer obtains in each case the consent in writing of the insurer for which such agent is the authorized agent, and files a copy of such consent with the Superintendent.

Collectors

(14) A collector of insurance premiums who does not solicit application for or the renewal or continuance of insurance contracts or act or aid in negotiating such contracts or the renewal thereof may carry on such business without a licence therefor if his collection fee does not exceed 5 per cent of any amount collected.

Members of
insurance
corporations

(15) A member of a duly licensed pension fund association, other than a salaried employee who receives commission or a member of a mutual fire, weather or live stock insurance

corporation carrying on business solely on the premium note plan, may, without a licence, solicit persons to become members of such society, association or corporation.

(16) An officer or a salaried employee of the head office of a duly licensed fraternal society who does not receive commission may, without a licence, solicit insurance contracts on behalf of the society. Officers of fraternal societies

(17) Any member not an officer or salaried employee described in subsection 16 may, without a licence, solicit insurance contracts on behalf of the society unless he devotes or intends to devote more than one-half of his time to soliciting such contracts or has in the previous licence year solicited and procured life insurance contracts on behalf of the society in an amount in excess of \$20,000. R.S.O. 1950, c. 183, s. 290 (12-18). Members of fraternal societies

(18) Unless the Superintendent otherwise directs, an officer or salaried employee of a licensed insurer who does not receive commissions, or an attorney or salaried employee of a reciprocal or inter-insurance exchange at which no commission is paid except to such attorney, may, without a licence, act for such insurer or exchange in the negotiation of any contracts of insurance or in the negotiation of the continuance or renewal of any contracts that the insurer or exchange may lawfully undertake, but officers or employees whose applications for licences as insurance agents or salesmen have been refused or whose licences have been revoked or suspended may not so act without the written approval of the Superintendent, and, in the cases of insurers authorized to undertake life insurance, only the officers and salaried employees of the head office who do not receive commissions may so act without a licence. 1951, c. 39, s. 19 (3). Salaried officials, etc., acting without licence

(19) Notwithstanding anything in this Act, the Superintendent may issue a licence to a transportation company authorizing it, by its employees in the province, to act as an agent for a licensed insurer with respect to accident insurance and such other classes of insurance as he approves. R.S.O. 1950, c. 183, s. 290 (20). Licensing of transportation ticket agents

(20) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing requirements, qualifications and conditions for the granting or renewal of licences;
- (b) providing for the holding of examinations for applicants for licences or renewals of licences;
- (c) classifying applicants for licences and restricting or prohibiting the licensing of any class of applicant;

- (d) prescribing the grounds upon which a licence may be revoked, suspended or not renewed;
- (e) regulating the method of handling premiums collected and requiring and regulating accounts and records to be maintained by agents;
- (f) requiring agents to supply information and make returns to the Superintendent;
- (g) requiring an agent to furnish a bond or other security and fixing the amount, form, requirements and terms thereof;
- (h) prescribing forms and providing for their use; and
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this section.

Scope of regulations

(21) Regulations made under subsection 20 are in addition to the provisions of this section notwithstanding that the regulations concern a matter provided for in this section. 1958, c. 42, s. 5 (4).

Offence

(22) Every person who assumes to act as an agent without the licence required by this section, or while his licence as such is suspended, is guilty of an offence. R.S.O. 1950, c. 183, s. 290 (22).

LICENCES OF INSURANCE SALESMEN**Licences of salesmen**

316.—(1) The Superintendent may issue to any person who has complied with this Act a licence authorizing such person to act as a salesman on behalf of a licensed insurance agent or broker in negotiating contracts of insurance or in the negotiation of the continuance or renewal of any contracts such agent or broker may lawfully undertake.

Type of insurance

(2) Licences so issued shall be for any classes of insurance, other than life insurance.

Issue of licence

(3) Upon written notice to the Superintendent that a licensed agent or broker has appointed a person as a salesman to act on his behalf, and upon due application of such person and payment by him of a fee of \$10, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence, and has not been refused a licence as an insurance agent or broker, or had such a licence suspended or revoked, issue to the applicant a licence stating in substance that the holder is, during the term of the licence, authorized to act in Ontario as a salesman of such agent or broker.

(4) Such notice of appointment by a licensed agent or broker, other than a life insurance agent, shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the agent or broker to act as a salesman in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving his name, age, residence, the amount of monthly salary he is to receive for such employment, his present occupation and occupation for the five years next preceding the date of notice, particulars of any other employment in which he is engaged, and such other information as the Superintendent requires.

Form of
notice of
appoint-
ment

(5) The licence shall expressly exclude the business of life insurance, but nothing herein prevents the issuance to the same applicant of a licence as a life insurance agent, if due application is made upon written notice of appointment by a licensed insurer.

Licence to
exclude life
insurance

(6) Where a licensed salesman ceases to be employed by the appointing agent or broker, notice in writing shall forthwith be given by the agent or broker to the Superintendent of such termination of employment with the reason therefor, and thereupon the licence is *ipso facto* suspended, but such licence may be revived subject to the approval of the Superintendent upon filing a notice of the salesman's appointment by another agent or broker, and upon payment of a fee of \$1.

Notice of
termination
of employ-
ment

(7) An agent or broker who fails to notify the Superintendent within thirty days of the termination of a salesman's appointment as required by subsection 6 is guilty of an offence.

Failure to
give
notice

(8) A licence issued under this section expires on the 30th day of September next after its issue unless automatically suspended by notice under subsection 6 or unless revoked or suspended by the Superintendent, but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he requires, accompanied by a certificate of a licensed agent or broker respecting the salesman's appointment, and payment of a fee of \$10, without requiring anew the detailed information hereinbefore specified.

Term and
renewal
of licence

(9) The holder of a licence issued under this section may, during the term and validity of his licence, act as salesman only for the agent or broker by whom he is appointed and within the limits of such agent's or broker's licence for classes of insurance other than life insurance.

Who sales-
man may
act for

Offence

(10) Every person who assumes to act as a salesman of an insurance agent or broker without the licence required by this section, or while his licence as such is suspended, is guilty of an offence. 1951, c. 39, s. 20.

LICENCES OF INSURANCE BROKERS

Licences of
insurance
brokers

317.—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Canada a licence to act in Ontario as an insurance broker to negotiate, continue or renew contracts of insurance, other than life insurance, or to place risks or effect insurance with any duly licensed insurer or its agent.

Application

(2) The applicant for such a licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation at the time of making the application, his occupation for the five years next preceding the date of the application and such other information as the Superintendent requires, and the applicant shall declare that he intends to hold himself out publicly and carry on business in good faith as an insurance broker and he shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario.

Superinten-
dent may
issue licence

(3) If the Superintendent is satisfied with the statement and information required by subsection 2, he shall issue the licence applied for, and the licence expires on the 30th day of September in each year unless sooner revoked or suspended.

Renewal
of licence

(4) The licence may, in the discretion of the Superintendent, be renewed upon payment of the prescribed fee for each succeeding year without requiring anew the detailed information hereinbefore specified.

Revocation
or suspen-
sion of
licence

(5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and, after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of such revocation or suspension and may publish a notice of such revocation or suspension in such manner as he deems necessary for the protection of the public.

Offence

(6) Any person, other than a licensed agent, who assumes to act as an insurance broker without a licence or during a suspension of his licence is guilty of an offence.

Licence not
to import
agency

(7) Subject to section 320, a broker shall not be presumed to be the agent of the insurer or the agent of the insured by

reason of the issue to him of a licence under this section. R.S.O. 1950, c. 183, s. 291.

318. In addition to issuing insurance brokers' licences giving full authority to the licensee as set forth in the preceding sections, the Superintendent may issue insurance brokers' licences limiting the authority of the licensee to the extent agreed upon with the applicant and set forth in the licence, but in other respects the granting of such licences and the brokers so licensed are subject to this Act. R.S.O. 1950, c. 183, s. 292.

Licence may be granted limiting authority of licensee

BROKERS' LICENCES FOR BUSINESS WITH UNLICENSED INSURERS

319.—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Ontario a licence to act as a special insurance broker to negotiate, continue or renew contracts of insurance in Ontario, other than contracts of life insurance, with insurers not authorized to transact such business in Ontario. R.S.O. 1950, c. 183, s. 293 (1); 1953, c. 48, s. 6 (1).

Licence to special insurance broker

(2) The applicant for such a licence shall file with the Superintendent a written application under oath as prescribed by section 317.

Application

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence applied for subject to suspension or revocation in the discretion of the Superintendent, which licence expires on the 30th day of June in each year unless sooner suspended or revoked.

Expiration of licence

(4) The licence may, in the discretion of the Superintendent, be renewed for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by section 317.

Renewal of licence

(5) A person shall, before receiving such licence, execute and deliver to the Superintendent security to the satisfaction of the Superintendent in the sum of not less than \$5,000 that the licensee will faithfully comply with this Act. R.S.O. 1950, c. 183, s. 293 (2-5).

Security

(6) Where sufficient insurance in Ontario cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do business in Ontario, the person named in such licence may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the risk to be insured and the amount of insurance required and stating that the insurance

When licensee may effect insurance with unlicensed insurers

cannot be obtained in licensed companies and that the application for such insurance at the stated rate of premium was previously made to and refused by named companies licensed in Ontario, and the person named in such licence shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured, a description of the risk insured, the full names of the unlicensed insurers, and the amount of insurance placed with each and the rate and amount of premium paid to each. R.S.O. 1950, c. 183, s. 293 (6); 1953, c. 48, s. 6 (2).

Records to
be kept,
inspection

(7) Such a licensee shall keep a separate account of insurance effected by him under his licence in books in the form prescribed by the Superintendent, which shall be open to inspection by the Superintendent or any officer of the Department.

Monthly
return

(8) Within ten days after the end of each month, every such licensee shall make to the Superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under this section by the licensee during such month.

Tax on
premiums

(9) In respect of all premiums on insurance effected under a licence, the licensee shall pay to the Department such taxes as would be payable if such premiums had been received by a licensed insurer, and payment thereof shall accompany the monthly return provided for in subsection 8.

Release of
security
given by
licensee

(10) On it being shown to the satisfaction of the Minister that all insurances effected under this section are no longer in force or have been reinsured, the licensee is entitled to a release or cancellation of his security.

Prohibition
against
accepting
business
from agents
and brokers

(11) A licensee under this section shall accept applications for insurance with unlicensed insurers only from the insured or another licensee under this section and shall not receive any such application from, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed under this section, and any contract of insurance with an unlicensed insurer made by or through any agent or broker not licensed under this section shall be deemed to be unlawfully made within the meaning of section 322.

Forfeiture
of licence

(12) A person licensed under this section who contravenes any of its provisions is guilty of an offence and, in addition to any other penalty, shall forfeit his licence. R.S.O. 1950, c. 183, 293 (7-12).

PROVISIONS RELATING TO AGENTS AND BROKERS GENERALLY

Agent or
broker
receiving
premiums

320.—(1) An agent or broker shall, for the purpose of receiving any premium for a contract of insurance, be deemed

to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.

(2) This section does not apply to life insurance. R.S.O. ^{Exception} 1950, c. 183, s. 294.

321. An agent or broker who knowingly procures, by ^{Fraudulent representations} fraudulent representations, payment or the obligation for payment of any premium on an insurance policy is guilty of an offence. R.S.O. 1950, c. 183, s. 295.

322. An agent or broker is personally liable to the insured ^{Personal liability of agent for unlawful contracts} on all contracts of insurance unlawfully made by or through him directly or indirectly with any insurer not licensed to undertake insurance in Ontario in the same manner as if such agent or broker were the insurer. R.S.O. 1950, c. 183, s. 296.

LICENCES OF INSURANCE ADJUSTERS

323.—(1) The Superintendent may, upon the payment of ^{Licences of insurance adjusters} the prescribed fee, issue to any suitable person a licence to act as an adjuster, but a person licensed as an insurance agent or broker under this Part shall not receive a licence to act as an insurance adjuster.

(2) The applicant for such licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation for the five years next preceding the date of the application and such other information as the Superintendent requires, and the applicant shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario. ^{Application to be filed with Superintendent}

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence, which ^{Licence to be in force one year} expires on the 30th day of June in each year unless sooner revoked or suspended.

(4) A licence may, in the discretion of the Superintendent ^{Renewal of licence} and upon payment of the prescribed fee, be renewed for each succeeding year without requiring anew the detailed information hereinbefore specified.

(5) The Superintendent may, for cause shown and after a ^{Revocation or suspension of licence} hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of the revocation or suspension.

Application
of s. 315
(8-10)

(6) The provisions of subsections 8, 9 and 10 of section 315, with reference to grounds of revocation of licence, to the appointment of an advisory board and to the power of the chairman thereof in the matter of insurance agents' licences, apply *mutatis mutandis* to applicants and licensees under this section, except that a representative of adjusters shall replace a representative of agents on the board.

Offence

(7) A person who acts as an adjuster without such a licence or during a suspension of his licence is guilty of an offence. R.S.O. 1950, c. 183, s. 297.

Prohibition
against
public
adjusters
of motor
accident
claims

324.—(1) Subject to subsection 2, no person shall, on behalf of himself or another person, directly or indirectly,

- (a) solicit the right to negotiate, or negotiate or attempt to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or
- (b) hold himself out as an adjuster, investigator, consultant or otherwise as an adviser, on behalf of any person having a claim against an insured for which indemnity is provided by a motor vehicle liability policy.

Exception

(2) This section does not apply to a barrister or solicitor acting in the usual course of his profession. R.S.O. 1950, c. 183, s. 298.

PARTNERSHIP LICENCES OF AGENTS, BROKERS AND ADJUSTERS

Licences to
be filed
by each
partner

325.—(1) Licences as agents, brokers or adjusters may be issued to partnerships on the conditions hereinbefore specified for the issue of such licences to individuals except as otherwise provided in this section.

Statement
to be filed
by each
partner

(2) Each member of the partnership shall file the statement or application and pay the prescribed fee, including a written request that the licence be issued in the name of the partnership, and the licence may be revoked or suspended as to one or more members of the partnership.

Notice of
termination
of partner-
ship

(3) If the partnership is terminated before the expiration of the licence, the partners shall forthwith give notice to the Superintendent, who shall thereupon revoke the licence.

Offence

(4) A member of a partnership licensed under this section who contravenes any of its provisions is guilty of an offence. R.S.O. 1950, c. 183, s. 299.

CORPORATION LICENCES OF AGENTS, BROKERS AND ADJUSTERS

326.—(1) Licences as agents, brokers or adjusters may be issued to any corporation that is incorporated expressly for the purpose of acting as an insurance agent, broker or adjuster or for that and other purposes. Licences to corporations

(2) Licences as agents or brokers shall not be issued to a corporation whose head office is outside Canada or if it appears to the Superintendent that the application is made for the purpose of acting as agent or broker wholly or chiefly in the insurance of property owned by the corporation or by its shareholders or members, or in the placing of insurance for one person, firm, corporation, estate or family. When licences not to be issued

(3) Except as otherwise provided in this section, such licences, and the corporation and officers of the corporation named in the licence, are subject to the provisions of this Act with respect to agents, brokers and adjusters. R.S.O. 1950, c. 183, s. 300 (1-3). Provisions as to licences

(4) The licence shall specify the officers who may act thereunder in the name and on behalf of the corporation and every such officer shall file a statement or application and pay the prescribed fee for individual agents, brokers or adjusters, but employees who do not receive commissions and who perform office duties only on behalf of the corporation may so act by authority of the corporation licence although not named therein. R.S.O. 1950, c. 183, s. 300 (4); 1951, c. 39, s. 21. Officers who may act under licence

(5) A licence may be revoked or suspended as to the corporation or as to any officers named therein. Revocation of licence

(6) If the principal business of a corporation licensed under this section is not the business of an insurance agent or broker or adjuster, the Superintendent may require from such a corporation such information as he deems necessary in respect to the corporation, its officers and affairs and may make such examination of its books and affairs as he deems necessary for the purposes of this Act. Superintendent may require information

(7) A corporation licensed under this section shall forthwith notify the Superintendent in writing of its dissolution or the revocation of its instrument of incorporation and upon receipt of such notice the Superintendent shall forthwith revoke the licence. Notice of dissolution of corporation

(8) An officer specified in the licence who contravenes any of the provisions of this section is guilty of an offence and is personally liable therefor, although such contravention is committed in the name and on behalf of the corporation, and the Personal liability of officers

corporation is liable for any such contravention the responsibility for which cannot be placed upon any such officer. R.S.O. 1950, c. 183, s. 300 (5-8).

PROVISIONS RELATING TO AGENTS, BROKERS AND ADJUSTERS
GENERALLY

Acting as
agent,
broker or
adjuster
without
authority

327. A person who, not being duly licensed as an agent, broker or adjuster, represents or holds himself out to the public as being such an agent, broker or adjuster, or as being engaged in the insurance business by means of advertisements, cards, circulars, letterheads, signs, or other methods, or, being duly licensed as such agent, broker or adjuster, advertises as aforesaid or carries on such business in any other name than that stated in the licence, is guilty of an offence. R.S.O. 1950, c. 183, s. 301.

Agent to be
deemed to
hold
premium
in trust
for insurer

328. An agent or broker who acts in negotiating, or renewing or continuing a contract of insurance, other than life insurance, with a licensed insurer, and who receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold such premium in trust for the insurer, and, if he fails to pay the premium over to the insurer within fifteen days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the company, he is entitled, such failure is *prima facie* evidence that he has used or applied the premium for a purpose other than paying it over to the insurer, and that he is guilty of an offence. R.S.O. 1950, c. 183, s. 302.

No com-
pensation to
be paid by
insurer to
person not
licensed

329.—(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not a duly licensed insurance agent or broker or a person acting under subsections 15 and 18 of section 315 and whoever knowingly contravenes this subsection is guilty of an offence.

Agreement
as to
premium
other than
as in policy
prohibited

(2) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly make or attempt to make an agreement as to the premium to be paid for a policy other than as set forth in the policy, or pay, allow or give, or offer or agree to pay, allow or give, a rebate of the whole or part of the premium stipulated by the policy, or any other consideration or thing of value intended to be in the

nature of a rebate of premium, to any person insured or applying for insurance in respect of life, person or property in Ontario, and an insurer or other person who contravenes this subsection is guilty of an offence.

(3) Nothing in this section affects any payment by way ^{Exceptions} of dividend, bonus, profit or savings that is provided for by the policy, or be construed so as to prevent an insurer compensating a *bona fide* salaried employee of its head or branch office in respect of insurance issued by the employing insurer upon the life of such employee or so as to require that such employee shall be licensed as an agent for life insurance under this Act to effect such insurance. R.S.O. 1950, c. 183, s. 303.

330. A person licensed as an agent for life insurance under this Act who induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer, or makes a false or misleading statement or representation in the solicitation or negotiation of insurance, or coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect to the placing of life insurance that would not be otherwise given in the effecting of a life insurance contract, is guilty of an offence. ^{Twisting life insurance policies prohibited} R.S.O. 1950, c. 183, s. 304.

331. Every licensed insurer shall make a return under oath ^{Returns to Superintendent} to the Superintendent in such form and at such times as he requires showing all persons, partnerships and corporations duly authorized as its agents in Ontario, and of persons, partnerships or corporations to whom it has, within such period as the form of return requires, paid or allowed or agreed to pay or allow, directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting to do so. R.S.O. 1950, c. 183, s. 305.

332. If the Superintendent refuses, suspends or revokes a ^{Appeal} licence applied for by or issued to a broker or adjuster, the Superintendent shall state in writing his reasons therefor and any person who deems himself aggrieved by the decision of the Superintendent may appeal therefrom to the Minister and, in case of an appeal, the decision of the Superintendent does not take effect until after the hearing and disposition thereof by the Minister. R.S.O. 1950, c. 183, s. 306.

Limited or
conditional
licence

333. A licence may be issued to an agent or adjuster subject to such limitations and conditions as the Superintendent prescribes. R.S.O. 1950, c. 183, s. 307.

PART XV

RATES AND RATING BUREAUX

Interpre-
tation

334. In this Part, "rating bureau" means an association or body, incorporated or unincorporated, created or organized for the purpose of fixing or promulgating rates of premium payable upon contracts of insurance in Ontario, or the terms or conditions of such contracts, or for these and other purposes, or that assumes to fix or promulgate such rates, terms or conditions by agreement among the members thereof or otherwise. R.S.O. 1950, c. 183, s. 308.

Filing of
constitution,
by-laws,
etc.

335.—(1) A rating bureau shall, forthwith after adoption, file in the office of the Superintendent duly certified copies of its constitution, articles of association and by-laws, and a list of its members and their addresses, and thereafter shall file in the office of the Superintendent every amendment, revision or consolidation of its constitution, articles of association and by-laws, and notice of the admission of new members and the withdrawal of former members, within thirty days after the passing or adoption of such amendment, revision or consolidation, or after the admission or withdrawal of such members.

Return of
rates

(2) A rating bureau and a licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he requires, showing every schedule of rates fixed, made or charged by them, together with such further or other information concerning such rates as he requires.

Changes
in rates

(3) A rating bureau and a licensed insurer shall give to the Superintendent at least ten days notice of any change in the schedules of rates or rules applicable thereto filed with the Superintendent under subsection 2, and shall file with the Superintendent amended schedules duly verified under oath showing particulars of all such changes before their effective date.

Offence for
deviation
from filed
rate

(4) A rating bureau or licensed insurer that, having filed its schedules of rates under this section, fixes, makes or charges a rate or receives a premium that deviates from the schedules of rates fixed and filed with the Superintendent for, and the rules applicable to, any risk or class of risks is guilty of an offence. R.S.O. 1950, c. 183, s. 309.

336.—(1) No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate for automobile insurance to a group of persons by reason of such group being engaged in a trade, calling, profession or occupation, or by reason of membership in a guild, union, society, club or association or by reason of common employment or by reason of common occupancy of the same building or group of buildings or for any other reason that would result in a lower cost to an individual in such group than such individual would have had to pay if insured individually, and an insurer or other person who contravenes this section is guilty of an offence.

Preferential
rates for
groups of
persons
prohibited

(2) Nothing in this section shall be deemed to prohibit the fixing or charging of a special rate for the insurance of two or more motor vehicles owned by and registered in the name of the same person. R.S.O. 1950, c. 183, s. 310.

Exception

337.—(1) No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate that discriminates unfairly between risks in Ontario of essentially the same physical hazards in the same territorial classification, or, if the rate is a fire insurance rate, that discriminates unfairly between risks in the application of like charges or credits or that discriminates unfairly between risks of essentially the same physical hazards in the same territorial classification and having substantially the same degree of protection against fire. R.S.O. 1950, c. 183, s. 311 (1).

Discrimina-
tion in rates

(2) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1950, c. 183, s. 311 (2), *part, amended*.

Commence-
ment of
section

338.—(1) The Superintendent may, on written complaint by an insurer or an insured that discrimination exists or upon such information filed with him as the Superintendent deems sufficient to justify an investigation, give notice in writing to a rating bureau or insurer, requiring such rating bureau or insurer to file with the Superintendent any schedules of rates or particulars showing how any specific rate is made up and any other information that he requires.

Authority
to require
information
to be filed

(2) Such rating bureau or insurer shall, within five days after the receipt of the notice, file with the Superintendent the schedules, particulars and other information required.

Time limit
for filing
information

(3) The Superintendent may, within thirty days after the receipt of the information required, make an order prohibiting any rate that, in his opinion, contravenes section 337 and directing that the discrimination be removed.

Issue of
order
prohibiting
rate

Notice of
order

(4) The Superintendent shall forthwith deliver to the rating bureau or insurer a copy of such order and reasons therefor and shall cause notice thereof to be published forthwith in *The Ontario Gazette*.

Rating
bureau not
to increase
rates

(5) No rating bureau or insurer shall remove such discrimination by increasing the rates on any risk or class of risks affected by such order unless it be made to appear to the satisfaction of the Superintendent that such increase is justifiable.

Offence

(6) A rating bureau, insurer or other person failing to comply with such order is guilty of an offence.

Appeal

(7) An order made under this section does not take effect for a period of ten days after its date and is subject to appeal within that time in the manner provided by section 12 and, in the event of an appeal, the order of the Superintendent does not take effect pending the disposition of the appeal. R.S.O. 1950, c. 183, s. 312.

Commence-
ment of
section

(8) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1950, c. 183, s. 311 (2), *part, amended*.

Superin-
tendent em-
powered to
order rate
adjustment

339.—(1) It is the duty of the Superintendent, after due notice and a hearing before him, to order an adjustment of the rates for automobile insurance whenever it is found by him that any such rates are excessive, inadequate, unfairly discriminatory, or otherwise unreasonable.

Appeal
from order

(2) An order made under this section does not take effect for a period of ten days after its date, and is subject to appeal within that time by any insured, insurer or rating bureau, in the manner provided by section 12 and, in the event of an appeal, the order of the Superintendent does not take effect pending the disposition of the appeal.

Attorney
General to
be heard

(3) The Attorney General shall be served with notice of any such appeal and is entitled to be heard by counsel upon the hearing thereof.

Offence

(4) A rating bureau, insurer or other person failing to comply with such order is guilty of an offence.

Commence-
ment of
section

(5) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1950, c. 183, s. 313.

Superin-
tendent to
have access
to books

340. The Superintendent or any person authorized under his hand and seal of office shall at all times have access to all such books, securities or documents of a rating bureau or

insurer as are related to the schedules of rates of the rating bureau or insurer, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence. R.S.O. 1950, c. 183, s. 314.

341.—(1) The Superintendent may inquire into any ques- ^{Inquiry}
tion that an insurer, insured or a rating bureau may bring before him with regard to insurance rates fixed by a rating bureau or charged by an insurer and also with regard to any other question arising out of the relationship or proposed relationship of the parties with reference to the insurance in question.

(2) The Superintendent shall not make an order pursuant ^{Report}
to an inquiry under this section, but the result of the inquiry shall be reported in his annual report. R.S.O. 1950, c. 183, s. 315.

PART XVI

AMALGAMATION, TRANSFER AND REINSURANCE

342. In this Part, "reinsurance" means an agreement ^{Interpre-}
whereby contracts made in Ontario by a licensed insurer or any class or group thereof are undertaken or reinsured by another insurer either by novation, transfer, assignment or as a result of amalgamation of the insurers. R.S.O. 1950, c. 183, s. 316.

343.—(1) Nothing in this Part affects contracts of rein- ^{Application}
surance of individual risks made by insurers in the ordinary course of business.

(2) In the case of the amalgamation of insurers, if one of the ^{Amalgama-}
contracting insurers is an insurer not incorporated or organized ^{tion:}
under the law of Ontario, the Superintendent shall not recom- ^{compliance}
mend that the agreement be approved by the Lieutenant ^{with law}
Governor in Council as hereinafter provided until it has been ^{where in-}
established to his satisfaction that the insurers party to the ^{corporated}
agreement have fully complied with the requirements of the law of the legislative authority under which the insurer was incorporated or organized, but a certificate of the supervising insurance official appointed by such legislative authority that such insurer has fully complied with the requirements of the law of the authority is sufficient evidence to the Superintendent of that fact. R.S.O. 1950, c. 183, s. 317.

Agreement
to be in
writing

344.—(1) An agreement for reinsurance shall be evidenced by an instrument in writing setting forth in full the terms and conditions of such reinsurance, but no such agreement shall be entered into unless and until the permission of the Superintendent has been obtained, and the agreement is not binding or effective until approved by the Lieutenant Governor in Council upon the report of the Superintendent.

Irregularity
not to
invalidate

(2) Upon the approval of the Lieutenant Governor in Council, such agreement is valid and binding notwithstanding any irregularity in procedure or any failure to comply with the procedural provisions of this Part. R.S.O. 1950, c. 183, s. 318.

Approval of
Lieutenant
Governor
in Council

345. When any such agreement for reinsurance has been entered into, the insurers party thereto shall within thirty days from the date of its execution apply for its approval to the Lieutenant Governor in Council by petition filed with the Superintendent. R.S.O. 1950, c. 183, s. 319.

Notice, etc.,
to share-
holders and
policy-
holders

346.—(1) In the case of life insurance, before any such application is made, notice thereof together with,

- (a) a statement of the nature and terms of the agreement for reinsurance;
- (b) an abstract containing the material facts embodied in the agreement under which such reinsurance is proposed to be effected; and
- (c) copies of the actuarial or other reports upon which the agreement is founded, including a report by an independent actuary approved by the Superintendent,

shall be served on the shareholders or members and on the holders of all policies in Ontario, other than industrial policies of each insurer, but the Superintendent may dispense with the service of such documents on the policyholders of the reinsuring insurer.

Service

(2) Such notice and documents shall be served by being transmitted through the post office directed to the registered or other known address of each such shareholder, member and policyholder and within such period that they may be delivered in the due course of delivery at least thirty days before the day appointed for the hearing of the application.

Service on
members of
fraternal
society

(3) Where a fraternal society is a party to an agreement for reinsurance, such notice and documents shall be deemed to be served on the members of the fraternal society if published in the official organ or publication, if any, of such society at least thirty days before the day appointed for the hearing of the application.

(4) The agreement under which the reinsurance is proposed to be effected shall be open to the inspection of the policyholders and shareholders at the principal offices of the insurers in Ontario for a period of thirty days after the issue of the abstract herein provided for. ^{Inspection of agreement}

(5) A copy of such notice shall also be published in *The Ontario Gazette* at least thirty days before the application is made. R.S.O. 1950, c. 183, s. 320. ^{Publication of notice}

347. In the case of fraternal societies, any such agreement for reinsurance may provide for granting out of the funds of the continuing society to the officer who has been in the service of a society party to such agreement for at least twenty years, and who is more than sixty years of age, and whose services will not be required after the agreement becomes effective, a sum not exceeding the aggregate of his salary or other remuneration for the next preceding three years or, in the alternative, an annual retiring allowance to any such officer during the remaining years of his life not exceeding three-fifths of his average annual salary for the next preceding three years of his service and payable weekly, semi-monthly or otherwise as is agreed upon. R.S.O. 1950, c. 183, s. 321. ^{Retiring allowance for officers of fraternal society}

348. Upon the filing of the petition, the insurers party to the agreement shall deposit with the Superintendent, ^{Documents to be filed with Superintendent}

- (a) a certified copy of the agreement for reinsurance;
- (b) a statement of the nature and terms of reinsurance;
- (c) certified copies of the statements of assets and liabilities of the insurers party to the agreement;
- (d) certified copies of the actuarial or other reports upon which the agreement is founded;
- (e) a declaration under the hands of the president or principal officer and manager or secretary of each insurer that to the best of their knowledge and belief every payment made or to be made to any person whatsoever on account of the reinsurance is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any of the parties to the reinsurance;
- (f) evidence of the service and publication of the notices required by section 346, if any;
- (g) such other information and reports as the Superintendent requires. R.S.O. 1950, c. 183, s. 322.

Day of
hearing

349. Upon receipt of the petition, the Superintendent shall fix a day for hearing the application and notice of the hearing shall be given in *The Ontario Gazette* at least ten days before the date fixed for the hearing. R.S.O. 1950, c. 183, s. 323.

Recommen-
dation of
Superin-
tendent

350. After hearing the directors, shareholders, members and policyholders and other persons whom he considers entitled to be heard upon the application or giving them an opportunity to be so heard, the Superintendent may recommend that the agreement be approved by the Lieutenant Governor in Council if he is satisfied that no sufficient objection to the arrangement has been established. R.S.O. 1950, c. 183, s. 324.

Impairment
of assets of
combined or
continuing
insurer

351. No such agreement shall be recommended if it appears to the Superintendent that, after the consummation of the reinsurance, an impairment or deficiency will exist in the balance sheet of the continuing or reinsuring insurer when its liabilities (including its capital stock, if any) are calculated according to this Act. R.S.O. 1950, c. 183, s. 325.

Report by
Superin-
tendent
where
reinsurance
advisable

352.—(1) If, in the case of a fraternal society, it appears to the Superintendent from the statement and reports filed with him, or from any examination or inquiry made under this Act, that, owing to depletion in membership or otherwise, the reinsurance of its contracts would be in the best interests of its members, he shall so advise the society and request that the advisability of entering into an agreement for reinsurance be considered.

Special
meeting
may be
called

(2) Where, in the opinion of the governing executive authority of the society, a special meeting of the society is desirable for the purpose of considering the request of the Superintendent, the governing executive authority may call a special meeting of the supreme legislative body of the society upon such notice as the governing executive authority deems reasonable and as the Superintendent approves, and such meeting so called shall be deemed to have been regularly constituted notwithstanding any provisions contained in the constitution and laws of the society. R.S.O. 1950, c. 183, s. 326.

SCHEDULE A

(Section 88)

INSURERS

(Section 23)

1. Licences and annual renewals thereof:

(1) Mutual benefit societies,

- | | |
|--|-------|
| (a) having fewer than 300 members..... | \$ 10 |
| (b) having 300 members or over..... | 20 |

(2) Pension fund associations.....	\$100
(3) Fraternal societies,	
(a) where the assets of the society do not exceed \$100,000..	50
(b) where the assets of the society exceed \$100,000 but do not exceed \$500,000.....	100
(c) where the assets of the society exceed \$500,000 but do not exceed \$1,000,000.....	150
(d) where the assets of the society exceed \$1,000,000 but do not exceed \$10,000,000.....	200
(e) where the assets of the society exceed \$10,000,000...	250
but the fee shall not exceed \$150 if the premium income, including dues, in Ontario does not exceed \$50,000 as shown in the last annual statement of the society required to be filed with the Superintendent under section 76.	
(4) Reciprocal or inter-insurance exchanges.....	200
(5) Mutual insurance corporations without guarantee capital stock, incorporated for the purpose of undertaking contracts of fire insurance upon agricultural property, weather insurance or live stock insurance, on the premium note plan,	
(a) where the gross amount at risk does not exceed \$1,000,000.....	\$ 25
(b) where the gross amount at risk exceeds \$1,000,000 but does not exceed \$5,000,000.....	50
(c) where the gross amount at risk exceeds \$5,000,000 but does not exceed \$10,000,000.....	75
(d) where the gross amount at risk exceeds \$10,000,000 but does not exceed \$20,000,000.....	100
(e) where the gross amount at risk exceeds \$20,000,000 but does not exceed \$30,000,000.....	150
(f) where the gross amount at risk exceeds \$30,000,000 but does not exceed \$40,000,000.....	200
(g) where the gross amount at risk exceeds \$40,000,000 but does not exceed \$50,000,000.....	250
(h) where the gross amount at risk exceeds \$50,000,000...	300
NOTE.—“gross amount at risk” means gross amount at risk in Ontario as at the 31st December next preceding the application for licence or renewal thereof.	
(6) The Non-Marine Underwriters Members of Lloyd's, London.....	500
(7) Insurers authorized to transact live stock insurance exclusively.....	100
(8) Insurers undertaking reinsurance exclusively.....	100
(9) Insurers not included within sub-items 1 to 8,	
(a) where the assets of the insurers do not exceed \$500,000.	200
(b) where the assets of the insurers exceed \$500,000 but do not exceed \$1,000,000.....	250
(c) where the assets of the insurers exceed \$1,000,000 but do not exceed \$5,000,000.....	300
(d) where the assets of the insurers exceed \$5,000,000 but do not exceed \$10,000,000.....	400
(e) where the assets of the insurers exceed \$10,000,000 but do not exceed \$20,000,000.....	450

(f) where the assets of the insurers exceed \$20,000,000... \$500

but the fee shall not exceed \$300 if the net premiums written in Ontario, including considerations for annuities, do not exceed \$50,000 as shown in the last annual statement of the insurer required to be filed with the Superintendent under section 76.

NOTE.—The assets of a Fraternal Society and of an insurer as used in this item means, if its head office is in Canada, the total gross assets of the insurer wherever situate, as exhibited by the balance sheet of the insurer at the end of the last preceding accounting period of the insurer, and as issued to the public in Canada, or, if its head office is not in Canada, the equivalent in Canadian currency at the current rate of exchange of its total assets exhibited by the head office balance sheet in the currency of the country where its head office is situate.

2. Renewal of licence of insurers that have discontinued under-taking or renewing insurance contracts in the Province, except mutual benefit societies and insurers renewing life insurance policies..	20
3. Examining and passing upon applications for initial licence (section 23):	
(1) Mutual benefit societies	20
(2) All others	50
4. Amendment of licence	20
5. Order in Council withdrawing or transferring deposit (sections 45 and 73)	50
6. Substitution of securities on deposit (except matured securities) calculated on the par value of securities withdrawn (section 43):	
Under \$10,000	10
\$10,000 and under \$25,000	20
\$25,000 and over	25
7. Filing annual statements (section 76)	10
8. Extension of time not exceeding seven days or any renewal thereof not exceeding seven days, for filing annual statement, applications for renewal of licence, or any other document or information required under this Act, but the Superintendent may grant relief from the payment of this fee in any case in which he thinks, for reasons appearing to him to be sufficient, that it should not be imposed	10
9. Licences and renewals thereof to issue contracts of insurance through an underwriters agency, term to expire on the 30th day of June in each year (section 82)	150
10. Order in Council authorizing bonds for Court purposes (section 19)	200
11. Order in Council authorizing society to hold land (section 79) ..	25

AGENTS, BROKERS AND ADJUSTERS

(Sections 315, 317, 319 and 323)

12. Licence for life insurance or life and accident insurance or life and accident and sickness insurance.	
(a) where the applicant is a resident of Ontario	10
(b) where the applicant is not a resident of Ontario,	

(i) if he resides in a province or state that grants licences to residents of Ontario, the same fee as is payable by a resident of that province or state for a similar licence in the province or state, or \$10 whichever is the greater,	
(ii) if he resides in a province or state that does not grant licences to residents of Ontario.....	\$ 50
(c) transfer or revival of licence.....	2
13. Licences for any class of insurance, other than life insurance and renewals thereof.	
(a) where the applicant carries on business in a municipality having a population in excess of 10,000 according to the last revised assessment roll.....	25
(b) where the applicant carries on business in a municipality having a population of less than 10,000 according to the last revised assessment roll.....	15
(c) where the applicant is not a transportation company, and the licence is expressly limited to accident insurance, or accident and sickness insurance, or travel-accident and baggage insurance, or customs bonds....	10
(d) where the applicant is not a resident of Ontario and resides in a province or state that,	
(i) grants licences to residents of Ontario.....	25
(ii) does not grant licences to residents of Ontario...	50
14. Licences for insurance brokers and renewals thereof.....	25
15. Licences for special insurance brokers for business with unlicensed insurers and renewals thereof.....	50
16. Licences for insurance adjusters and renewals thereof: Each sole proprietor, partnership or corporation..... and \$15 for each active member thereof.	50
17. Licences under subsection 19 of section 315 in the name of a transportation company authorizing its ticket agent to act as agent for railway accident insurance, live stock insurance or baggage insurance and renewals thereof.....	25

MISCELLANEOUS

18. Certificate of Superintendent.....	2
19. Copies of or extracts from documents filed with or issued by the Superintendent, per folio of 100 words.....	1
20. Certified copy of licence.....	2
21. Where the fee payable for a licence under section 23 or 82 exceeds \$15, the fee for a period of six months or under shall be one-half of the fee payable for the full term.	
22. Examining and passing upon applications or documents in connection with any matter not specifically referred to in this Schedule.....	25
Order in Council.....	200

SCHEDULE B

PREMIUM NOTE

(Section 120)

(Place)

(Date)

In consideration of insurance granted under Policy No.

I hereby promise to pay the.....Company
at.....(*place of payment*) the sum of.....dollars, as follows:
on.....day of....., 19.., in full of cash payment,.....dollars

—or—

on.....day of....., 19.., 1st instalment of cash payment.....dollars;
on.....day of....., 19.., 2nd instalment of cash payment.....dollars;
on.....day of....., 19.., 3rd instalment of cash payment.....dollars;

—and—

upon notice such further sums not exceeding, in the aggregate, the face
amount of this note as may be lawfully assessed hereon by the directors
of the said Company under *The Insurance Act*.

**Any action that may be brought or commenced in a division
court in respect or on account of this note, or any sum to be
assessed thereon, may be brought and commenced against the
maker hereof in the division court for the division wherein the
head office or any agency of the insurer is located.**

\$.....

.....
Signature of Insured

.....
Post Office Address

R.S.O. 1950, c. 183, Sched. B.

SCHEDULE C

(Section 304)

No.....

Term of licence.....to.....

DEPARTMENT OF INSURANCE
ONTARIO

RECIPROCAL INSURANCE LICENCE

This is to certify that.....,
being an exchange within the meaning of *The Insurance Act*, has complied
with the said Act; and the subscribers of the said exchange are hereby
licensed and authorized for and during the term beginning on the.....
day of....., 19...., and ending on the.....day of
....., 19...., to exchange reciprocal contracts of indemnity or
inter-insurance (*here state class of insurance*).

.....
Superintendent of Insurance

R.S.O. 1950, c. 183, Sched. C.

CHAPTER 191

The Interpretation Act

1.—(1) The provisions of this Act apply to every Act of the Legislature contained in these Revised Statutes or hereafter passed, except in so far as any such provision,

Application of Act

- (a) is inconsistent with the intent or object of the Act; or
- (b) would give to a word, expression or provision of the Act an interpretation inconsistent with the context; or
- (c) is in the Act declared not applicable thereto. R.S.O. 1950, c. 184, s. 1.

(2) Sections 2, 4, 9, 27 and 30 apply to the regulations made under the authority of an Act. 1957, c. 52, s. 1.

Application of certain sections to regulations

2. Where an Act contains an interpretation provision, it shall be read and construed as subject to the exceptions contained in subsection 1 of section 1. R.S.O. 1950, c. 184, s. 2.

Interpretation provisions in other Acts

3. The provisions of this Act apply to the construction of it and to the words and expressions used in it. R.S.O. 1950, c. 184, s. 3.

Application to this Act

RULES OF CONSTRUCTION

4. The law shall be considered as always speaking and, where a matter or thing is expressed in the present tense, it is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part of it according to its true intent and meaning. R.S.O. 1950, c. 184, s. 4.

Law always speaking

5. Where an Act is not to come into operation immediately on the passing thereof and confers power to make an appointment, to make, grant or issue an order, warrant, scheme, letters patent, rules, regulations or by-laws, to give notices, to prescribe forms, or to do any thing for the purposes of the Act, that power may be exercised at any time after the passing of the Act, but an instrument made under the power, unless the contrary is necessary for bringing the Act into operation, does not come into operation until the Act comes into operation. 1957, c. 52, s. 2.

What may be done under an Act before it is in operation

Meaning of expressions used in instruments issued under an Act

6. Where an Act confers power to make, grant or issue an order, warrant, scheme, letters patent, rule, regulation or by-law, expressions used therein, unless the contrary intention appears, have the same meaning as in the Act conferring the power. R.S.O. 1950, c. 184, s. 6.

Judicial notice

7.—(1) Every Act shall be judicially noticed by judges, justices of the peace and others without being specially pleaded. R.S.O. 1950, c. 184, s. 7, *amended*.

Idem

(2) Every proclamation shall be judicially noticed by judges, justices of the peace and others without being specially pleaded. 1952, c. 43, s. 1; 1953, c. 49, s. 1.

Effect of preamble

8. The preamble of an Act shall be deemed a part thereof and is intended to assist in explaining the purport and object of the Act. R.S.O. 1950, c. 184, s. 8.

Marginal notes, headings, etc., not part of Act

9. The marginal notes and headings in the body of an Act and references to former enactments form no part of the Act but shall be deemed to be inserted for convenience of reference only. R.S.O. 1950, c. 184, s. 9.

All Acts remedial

10. Every Act shall be deemed to be remedial, whether its immediate purport is to direct the doing of anything that the Legislature deems to be for the public good or to prevent or punish the doing of any thing that it deems to be contrary to the public good, and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit. R.S.O. 1950, c. 184, s. 10.

The Crown

11. No Act affects the rights of Her Majesty, Her heirs or successors, unless it is expressly stated therein that Her Majesty is bound thereby. R.S.O. 1950, c. 184, s. 11.

Private Acts

12. No Act of the nature of a private Act affects the rights of any person, or body corporate, politic or collegiate, such only excepted as are therein mentioned or referred to. R.S.O. 1950, c. 184, s. 12.

REPEAL, AMENDMENT AND CONSOLIDATION

Reservation of power to repeal or amend

13. Every Act shall be construed as reserving to the Legislature the power of repealing or amending it, and of revoking, restricting, or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever the repeal, amendment, revocation, restriction or modification is deemed by the Legislature to be required for the public good. R.S.O. 1950, c. 184, s. 13.

14.—(1) Where an Act is repealed or where a regulation is revoked, the repeal or revocation does not, except as in this Act otherwise provided, ^{Repeal, effect}

- (a) revive any Act, regulation or thing not in force or existing at the time at which the repeal or revocation takes effect;
- (b) affect the previous operation of any Act, regulation or thing so repealed or revoked;
- (c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, regulation or thing so repealed or revoked;
- (d) affect any offence committed against any Act, regulation or thing so repealed or revoked, or any penalty or forfeiture or punishment incurred in respect thereof;
- (e) affect any investigation, legal proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Act, regulation or thing had not been so repealed or revoked.

(2) If other provisions are substituted for those so repealed or revoked, ^{When other provisions substituted}

- (a) all officers and persons acting under the Act, regulation or thing so repealed or revoked, shall continue to act as if appointed under the provisions so substituted until others are appointed in their stead;
- (b) all proceedings taken under the Act, regulation or thing so repealed or revoked, shall be taken up and continued under and in conformity with the provisions so substituted, so far as consistently may be;
- (c) in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights existing or accruing under the Act, regulation or thing so repealed or revoked, or in any other proceeding in relation to matters that have happened before the repeal or revocation, the procedure established by the substituted provisions shall be followed so far as it can be adopted; and
- (d) if any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions of the Act, regulation or thing whereby such other provisions are substituted, the penalty, forfeiture or punishment,

if imposed or adjudged after such repeal or revocation, shall be reduced or mitigated accordingly. R.S.O. 1950, c. 184, s. 14.

Re-enactment,
amendment,
consolidation
and revision

15. Where an Act is repealed and other provisions are substituted by way of re-enactment, amendment, revision or consolidation,

- (a) all regulations, orders, rules and by-laws made under the repealed Act continue good and valid in so far as they are not inconsistent with the substituted Act until they are annulled and others made in their stead; and
- (b) a reference in an unrepealed Act, or in a rule, order or regulation made thereunder to such repealed Act, shall, as regards any subsequent transaction, matter or thing be held and construed to be a reference to the provisions of the substituted Act relating to the same subject matter and, if there is no provision in the substituted Act relating to the same subject matter, the repealed Act stands good and shall be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder. R.S.O. 1950, c. 184, s. 15, *amended*.

Repeal of
Act not a
declaration
that Act was
in force

16. The repeal of an Act shall be deemed not to be or to involve a declaration that the Act was or was considered by the Legislature to have been previously in force. R.S.O. 1950, c. 184, s. 16.

Repeal or
amendment
not a
declaration
of previous
law

17. The repeal or amendment of an Act shall be deemed not to be or to involve any declaration as to the previous state of the law. R.S.O. 1950, c. 184, s. 17.

Amendment
of Act not a
declaration
of different
state of law

18. The amendment of an Act shall be deemed not to be or to involve a declaration that the law under the Act was or was considered by the Legislature to have been different from the law as it has become under the Act as so amended. R.S.O. 1950, c. 184, s. 18.

Re-enactment, etc.,
not an
adoption of
judicial
construction

19. The Legislature shall not, by re-enacting, revising, consolidating or amending an Act, be deemed to have adopted the construction that has by judicial decision or otherwise been placed upon the language used in the Act or upon similar language. R.S.O. 1950, c. 184, s. 19.

PROCLAMATIONS

20. Where the Lieutenant Governor is authorized to do an act by proclamation, the proclamation is to be understood to be a proclamation issued under an order of the Lieutenant Governor in Council, but it is not necessary for the proclamation to mention that it is issued under such an order. R.S.O. 1950, c. 184, s. 20.

Lieutenant
Governor
acting by
proclama-
tion

CROWN APPOINTMENTS

21. Authority to the Lieutenant Governor to make an appointment to an office, by commission or otherwise, shall be deemed authority to appoint during pleasure. R.S.O. 1950, c. 184, s. 21.

Tenure
of office

REGULATIONS

22. The Lieutenant Governor in Council may make regulations for the due enforcement and carrying into effect of any Act of the Legislature and, where there is no provision in the Act, may prescribe forms and may fix fees to be charged by all officers and persons by whom anything is required to be done. R.S.O. 1950, c. 184, s. 23, *amended*.

Regulations

IMPRISONMENT

23. If in an Act a person is directed to be imprisoned or committed to prison, the imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the common jail of the locality in which the order for the imprisonment is made or, if there be no common jail there, then in or to the common jail that is nearest to such locality. R.S.O. 1950, c. 184, s. 24.

Imprison-
ment,
place

24. Where power to impose imprisonment is conferred by an Act, it shall be deemed to authorize the imposing of imprisonment with hard labour. R.S.O. 1950, c. 184, s. 25.

Hard
labour

OFFENCE UNDER MORE THAN ONE PROVISION

25. Where an act or omission constitutes an offence under two or more Acts, the offender, unless the contrary intention appears, is liable to be prosecuted and punished under either or any of those Acts, but is not liable to be punished twice for the same act or omission. R.S.O. 1950, c. 184, s. 26, *amended*.

Offence
under more
than one
provision

CORPORATIONS

Effect of
words con-
stituting a
corporation

26. In every Act, unless the contrary intention appears, words making any association or number of persons a corporation or body politic and corporate,

- (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal, to alter or change the seal at its pleasure, to have perpetual succession, to acquire and hold personal property or moveables for the purpose for which the corporation is constituted, and to alienate the same at pleasure;
- (b) vest in a majority of the members of the corporation the power to bind the others by their acts; and
- (c) exempt individual members of the corporation from personal liability for its debts, obligations or acts if they do not contravene the provisions of the Act incorporating them. R.S.O. 1950, c. 184, s. 27.

IMPLIED PROVISIONS

Implied
provisions,
as to juris-
diction

27. In every Act, unless the contrary intention appears,

Implied
powers

acts to be
done by
more than
two

deviation
from forms

powers and
duties to be
exercised
and per-
formed from
time to time

to be exer-
cised and
performed
by holder of
office for
time being

- (a) where anything is directed to be done by or before a magistrate or a justice of the peace or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where it is to be done;
- (b) where power is given to a person, officer or functionary to do or to enforce the doing of an act or thing, all such powers shall be understood to be also given as are necessary to enable the person, officer or functionary to do or enforce the doing of the act or thing;
- (c) where an act or thing is required to be done by more than two persons, a majority of them may do it;
- (d) where a form is prescribed, deviations therefrom not affecting the substance or calculated to mislead do not vitiate it;
- (e) where a power is conferred or a duty is imposed on the holder of an office as such, the power may be exercised and the duty shall be performed from time to time as occasion requires;
- (f) where a power is conferred or a duty is imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the holder of the office for the time being;

- (g) where power is conferred to make by-laws, regulations, rules or orders, it includes power to alter or revoke the same from time to time and make others; power to make by-laws, etc., to confer power to alter
- (h) where the time limited by an Act for a proceeding or for the doing of anything under its provisions expires or falls upon a holiday, the time so limited extends to and the thing may be done on the day next following that is not a holiday; computation of time where time limited expires on a holiday
- (i) where the time limited for a proceeding or for the doing of any thing in an office of a local registrar of the Supreme Court, or an office of the Supreme court at Osgoode Hall or a county or district court office, or a surrogate court office, or a division court office, or a registry office, or a land titles office, or a sheriff's office expires or falls upon a Saturday, the time so limited extends to and the thing may be done on the day next following that is not a holiday; computation of time where time limited expires on a Saturday
- (j) words importing the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the converse; number and gender
- (k) a word interpreted in the singular number has a corresponding meaning when used in the plural; idem
- (l) words authorizing the appointment of a public officer or functionary, or a deputy, include the power of removing him, re-appointing him, or appointing another in his stead or to act in his stead, from time to time in the discretion of the authority in whom the power of appointment is vested; words authorizing appointment include power to remove
- (m) words directing or empowering a public officer or functionary to do an act or thing, or otherwise applying to him by his name of office, include his successors in office and his lawful deputy; directions to public officer to apply to his successors and deputy
- (n) where reference is made by number to two or more sections, subsections, paragraphs, clauses or other provisions in an Act, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference; reference to sections by numbers
- (o) words authorizing the appointment of a public officer or functionary or the appointment of a person to administer an Act include the power of appointing a deputy to perform and have all the powers and authority of such public officer or functionary or person to be exercised in such manner and upon such occasions as are specified in the instrument words authorizing appointment include power to appoint deputy

appointing him or such limited powers and authority as the instrument prescribes. R.S.O. 1950, c. 184, s. 28; 1952, c. 43, s. 2, *amended*.

PROCEDURE

Appeals to
Court of
Appeal

28. Where an appeal to the Court of Appeal is permitted by an Act, the appeal shall be made in the time and manner prescribed by the rules of court. R.S.O. 1950, c. 184, s. 29.

Application
to court or
judge,
procedure

29. Unless otherwise provided, where an application to a court or a judge is permitted by an Act, the application may be made by originating notice in the manner prescribed by the rules of court. R.S.O. 1950, c. 184, s. 30.

WORDS AND TERMS

Words and
terms

30. In every Act, unless the context otherwise requires,

1. "Act" includes enactment;
2. "affidavit", in the case of persons allowed by law to affirm or declare instead of swearing, includes affirmation and declaration;
3. "Assembly" means the Legislative Assembly of Ontario;
4. "county" includes two or more counties united for purposes to which the Act relates;
5. "Court of Appeal" means the Court of Appeal for Ontario;
6. "Great Seal" means the Great Seal of Ontario;
7. "herein" used in a provision of an Act relates to the whole Act and not to that provision only;
8. "High Court" means the High Court of Justice for Ontario;
9. "Her Majesty", "His Majesty", "the Queen", "the King" or "the Crown" means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth;
10. "holiday" includes Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, the birthday or the day fixed by proclamation of the Governor General for the celebration of the birthday of the reigning Sovereign, Victoria Day, Dominion Day, Labour Day, Remembrance Day, and any day appointed by proclamation of the Governor General

or the Lieutenant Governor as a public holiday or for a general fast or thanksgiving, and when any holiday, except Remembrance Day, falls on a Sunday, the day next following is in lieu thereof a holiday;

11. "justice of the peace" includes two or more justices of the peace or magistrates assembled or acting together;
12. "legally qualified medical practitioner", "duly qualified medical practitioner", or any words importing legal recognition of a person as a medical practitioner or member of the medical profession, means a person registered under *The Medical Act*;
13. "Lieutenant Governor" means the Lieutenant Governor of Ontario, or the chief executive officer or administrator for the time being carrying on the government of Ontario by whatever title he is designated;
14. "Lieutenant Governor in Council" means the Lieutenant Governor of Ontario or the person administering the government of Ontario for the time being acting by and with the advice of the Executive Council of Ontario;
15. "magistrate" includes a deputy magistrate;
16. "may" shall be construed as permissive;
17. "mental defective" and "mentally defective person" means a person in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, and who requires care, supervision and control for his own protection or welfare or for the protection of others;
18. "mental deficiency" means the condition of mind of a mental defective;
19. "mentally ill person" means a person, other than a mental defective, who is suffering from such a disorder of the mind that he requires care, supervision and control for his own protection or welfare, or for the protection of others;
20. "mental illness" means the condition of mind of a mentally ill person;
21. "mental incompetent" and "mentally incompetent person" means a person,

(a) in whom there is such a condition of arrested

R.S.O. 1960,
c. 234

or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or

(b) who is suffering from such a disorder of the mind,

that he requires care, supervision and control for his protection and the protection of his property;

22. "mental incompetency" means the condition of mind of a mentally incompetent person;
23. "month" means a calendar month;
24. "newspaper", in a provision requiring publication in a newspaper, means a printed publication in sheet form, intended for general circulation, published regularly at intervals of not longer than a week, consisting in great part of news of current events of general interest and sold to the public and to regular subscribers upon a *bona fide* subscription list;
25. "now", "next", "heretofore" and "hereafter" shall be construed as having reference to the date of the coming into force of the Act;
26. "oath", in the case of persons allowed by law to affirm or declare instead of swearing, includes affirmation and declaration;
27. "peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, and justice of the peace, and also the superintendent, governor, jailer, keeper, guard or any other officer or permanent employee of a jail or reformatory, and also a police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process;
28. "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
29. "proclamation" means a proclamation under the Great Seal;
30. "registrar" includes a deputy registrar;
31. "Rules Committee" means the Rules Committee established under *The Judicature Act*;
32. "rules of court", when used in relation to a court, means rules made by the authority having power to

make rules or orders regulating the practice and procedure of such court, or for the purpose of an Act directing or authorizing anything to be done by rules of court;

33. "security" means sufficient security, and "sureties" means sufficient sureties, and where these words are used, one person is sufficient therefor unless otherwise expressly required;
34. "shall" shall be construed as imperative;
35. "Supreme Court" means the Supreme Court of Ontario;
36. "swear", in the case of persons for the time being allowed by law to affirm or declare instead of swearing, includes affirm and declare, and "sworn" has a corresponding meaning;
37. "writing", "written", or any term of like import, includes words printed, painted, engraved, lithographed, photographed, or represented or reproduced by any other mode in a visible form;
38. "year" means a calendar year. R.S.O. 1950, c. 184, s. 31; 1958, c. 43, s. 1, *amended*.

SPECIAL INTERPRETATION CLAUSES

31. The interpretation section of *The Judicature Act* extends to all Acts relating to legal matters. R.S.O. 1950, c. 184, s. 32. R.S.O. 1960,
c. 197

32. The interpretation section of *The Municipal Act* extends to all Acts relating to municipal matters. R.S.O. 1950, c. 184, s. 33. R.S.O. 1960,
c. 249

CHAPTER 192

The Interprovincial Drainage Act

1. Where for the purpose of securing better drainage it is deemed necessary or expedient to extend drainage works from Ontario into or through lands in an adjoining province, or to extend a drainage work from an adjoining province into or through lands in Ontario, the Lieutenant Governor in Council may authorize the Minister of Public Works to enter into an agreement with a designated officer of the adjoining province as to the proportion of the cost of the work in the adjoining province to be borne and paid by Ontario and as to the proportion of the cost of the work in Ontario to be borne and paid by the adjoining province. R.S.O. 1950, c. 185, s. 1.

Extending
inter-
provincial
drainage
work

2. Where a drain extends from an adjoining province into or through lands in Ontario, the Minister of Public Works may order the municipality into which the drain extends to provide for the construction of the necessary drainage work and thereupon *The Municipal Drainage Act* applies *mutatis mutandis* to such drain and the contribution to the work from the other province shall be paid to such municipality on the proper completion of the work. R.S.O. 1950, c. 185, s. 2.

Extension of
drain from
adjoining
province

R.S.O. 1960,
c. 252

3. Where a drain extends from Ontario into or through lands in an adjoining province, the Minister of Public Works may order the municipality in Ontario in which the lands affected by the drainage work are situate to provide funds to pay for the proportion of the cost of the work in the adjoining province to be borne and paid by Ontario, and thereupon *The Municipal Drainage Act* applies *mutatis mutandis* to such drain. R.S.O. 1950, c. 185, s. 3.

Apportion-
ment of cost

CHAPTER 193

The Investigation of Titles Act**1. In this Act,**Interpre-
tation

- (a) "claim" means a right, title, interest, claim or demand of any kind or nature whatsoever affecting land set forth in, based upon or arising out of a registered instrument, and, without limiting the generality of the foregoing, includes mortgages, liens, easements, agreements, contracts, options, charges, annuities, leases, dower rights whether inchoate or otherwise, and restrictions as to use of land or other encumbrance affecting land, but does not include a highway, public lane, unregistered right of way or other easement or right that a person is openly enjoying and using or any claim imposed by any statutory enactment;
- (b) "instrument" includes a Crown grant, order in council of Canada or of Ontario, deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney under which any such instrument is executed, bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any court, judgment, or order of foreclosure, and includes every other certificate of judgment or order of any court affecting any interest in or title to land, and every certificate of amalgamation of loan corporations, every certificate of payment of taxes granted under the corporate seal of the county, city or town by the treasurer, every sheriff's and treasurer's deed of land sold by virtue of his office, every contract in writing, every order and proceeding in mental incompetency, bankruptcy and insolvency, every plan of a survey or subdivision of land, and every other instrument whereby land may be transferred, disposed of, charged, encumbered or affected in any wise, affecting land in Ontario;

R.S.O. 1960,
c. 106

- (c) "land" includes lands, tenements, hereditaments and appurtenances and any estate or interest therein;
- (d) "owner" means a person entitled to a freehold or other estate or interest in land at law or in equity, in possession, in futurity or in expectancy. R.S.O. 1950, c. 186, s. 1.

Title for
40 years
to be good

Notice
of claim

Where
subs. 1
not to
apply
R.S.O. 1960,
cc. 48, 340

No notice
necessary in
certain cases

Dower,
while
husband
remains
owner

Dower after
alienation

Registration
of notice of
claim

2.—(1) From and after the 1st day of June, 1930, no person in dealing with land shall be required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title, save and except during the period of forty years immediately preceding the date of such dealing as aforesaid, and no claim that has been in existence longer than the forty-year period affects the land, unless the claim has been acknowledged or specifically referred to or contained in an instrument registered against the land within the forty-year period or unless a notice is registered against the land as provided in subsections 6, 7, 8 and 10. R.S.O. 1950, c. 186, s. 2 (1).

(2) Subsection 1 does not apply to land with respect to which a certificate of title has been given under *The Certification of Titles Act* or *The Quieting Titles Act* within the forty-year period mentioned in subsection 1. 1957, c. 53, s. 1; 1958, c. 44, s. 1.

(3) Where a person is shown by the books of a registry office to be the owner of a freehold or leasehold estate in land or of an equity of redemption therein prior to any forty-year period and is continuously shown on the books from time to time during the forty-year period and thereafter as the owner of either a freehold or leasehold estate in the same land or of an equity of redemption therein or any of them, such person's claim to the land is not affected by failure to register the notice as required by subsection 1.

(4) Notwithstanding subsection 1, it is not necessary for a wife to register a claim with respect to her inchoate right to dower in land so long as her husband is wholly or in part the owner thereof.

(5) In the case of a claim registered in respect of an inchoate right to dower in lands alienated by a husband without bar of dower, the forty-year period mentioned in subsection 1 runs from the date of such alienation.

(6) Upon the 1st day of June, 1929, and within one year thereafter, a person having a claim against any land, which claim has been in existence for forty years or more prior to the first day of June, 1929, but in respect to which claim no notice of its existence has been given, acknowledged or spe-

cifically referred to or contained in an instrument registered against the land within forty years prior to the 1st day of June, 1929, or a person on his behalf may register in the proper registry office a notice in which shall be set forth the claimant's full name and address and a description of the land and a detailed statement of the claim, verified by the affidavit of the person registering the notice.

(7) A person having a claim against land, or a person on his behalf, may within forty years from the date of the registration of an instrument in which the claim is acknowledged, set forth, or referred to, or on which the claim is based, or out of which the claim arises, register a notice of the claim in the manner set out in subsection 6, and such registration constitutes a notice of the claim for a further period of forty years.

Registering
notice of
claim

(8) Before a notice expires, it may be re-registered and so on from time to time as long as the person registering the notice or a person claiming under him deems it necessary, and every re-registered notice continues in force for forty years from the date of the registration thereof.

Re-regis-
tration

(9) An instrument, the entry of which has been ruled off the abstract index as provided by section 73 of *The Registry Act*, does not constitute an instrument under this Act upon which a claim shall be based, or one out of which a claim may arise affecting the land in respect of which the entry of the instrument has been ruled off, notwithstanding that the claim is acknowledged, referred to or set forth in any such instrument.

Claim not to
be founded
on certain
instruments
R.S.O. 1960,
c. 348

(10) Notwithstanding subsections 6, 7 and 8, any person having a claim against land which by the provisions of this Act would have expired, may register notice of the claim at any subsequent time if there has been no intermediate registered dealing with the land, and such registration has the same effect as if done within the time limited by subsections 6, 7 and 8.

Time for
registering
notice

(11) The registration of a notice as provided in subsections 6, 7, 8 and 10, does not in any way validate a claim that has otherwise expired.

Registration
not to vali-
date expired
claim

(12) The registrar is entitled to a fee of \$1 for registering the notice referred to in subsections 6, 7, 8 and 10.

Fees

(13) The provisions of this Act have effect notwithstanding any statute or any rule made under the authority of a statute or any rule of law, and, where there is any conflict between the provisions of this Act and any such statute, rule or rule of

Act to
prevail over
other pro-
visions

law, the provisions of this Act prevail. R.S.O. 1950, c. 186, s. 2 (2-12).

Act not to
apply to land
titles offices

3. This Act does not apply to land entered on the register in a land titles office, nor does this Act affect the interest of the Crown in land where no patent has issued. R.S.O. 1950, c. 186, s. 3.

CHAPTER 194

The Investment Contracts Act

1. In this Act,

Interpre-
tation

(a) "filed" means filed under this Act;

(b) "investment contract" means a contract, agreement, certificate, instrument or writing containing an undertaking by an issuer to pay the holder thereof, or his assignee, or personal representative, or other person, a stated or determinable maturity value in cash or its equivalent on a fixed or determinable date and containing optional settlement, cash surrender or loan values prior to or after maturity, the consideration for which consists of payments made or to be made to the issuer in instalments or periodically, or of a single sum, according to a plan fixed by the contract, whether or not the holder is or may be entitled to share in the profits or earnings of, or to receive additional credits or sums from, the issuer, but does not include a contract within the meaning of *The Insurance Act*;

(c) "issuer" means a corporation that offers for sale, sells, makes or enters into investment contracts of its own issue, but does not include an insurer within the meaning of *The Insurance Act* or a corporation within the meaning of *The Loan and Trust Corporations Act*;

R.S.O. 1960,
cc. 190, 222

(d) "qualified assets" means,

(i) cash,

(ii) first mortgages on improved real estate and first mortgages made under *The Dominion Housing Act, 1935* (Canada), *The National Housing Act, 1938* (Canada), *The National Housing Act, 1944* (Canada), the *National Housing Act* (Canada) or the *National Housing Act, 1954* (Canada),

1935, c. 58;
1938, c. 49;
1944-45,
c. 46 (Can.);
R.S.C. 1952,
c. 188;
1953-54,
c. 23 (Can.)

(iii) bonds, debentures, stocks and other securities of the classes authorized under *The Corporations Act* for the investment of the funds of joint stock insurance companies incorporated under

R.S.O. 1960,
c. 71

R.S.C. 1952,
c. 31

the law of Ontario or authorized under the *Canadian and British Insurance Companies Act* (Canada) for the investment of the funds of companies registered thereunder,

- (iv) real property acquired by foreclosure or in satisfaction of a debt and held for a period of less than seven years, and
- (v) such other investments or securities as are designated by the regulations;
- (e) "prescribed" means prescribed by the regulations;
- (f) "registered" means registered under this Act;
- (g) "regulations" means the regulations made under this Act;
- (h) "salesman" means a person employed, appointed or authorized by an issuer to sell investment contracts;
- (i) "Superintendent" means the Superintendent of Insurance. R.S.O. 1950, c. 187, s. 1, *amended*.

Filing
form of
contract

2.—(1) No person shall issue for sale or offer for sale or sell an investment contract unless a copy of the form thereof has been filed with the Superintendent.

Forms not
to be filed

(2) The Superintendent shall accept for filing a copy of the form of any investment contract tendered for filing unless the sale of investment contracts in such form would be inequitable or tend to work a fraud upon purchasers thereof or be against the public interest. R.S.O. 1950, c. 187, s. 2.

Who may
issue
contract

3.—(1) No person shall issue for sale an investment contract unless such person is registered as an issuer.

Who may
sell
contract

(2) No person shall offer for sale or sell an investment contract unless such person is,

- (a) registered as an issuer; or
- (b) recorded by the Superintendent as an executive officer of a registered issuer; or
- (c) registered as a salesman. R.S.O. 1950, c. 187, s. 3.

What cor-
porations
may be
registered

4. No corporation shall be registered under this Act as an issuer unless,

- (a) there has been filed with the Superintendent,
 - (i) a certified copy of the Act, letters patent or other instrument of incorporation of the corporation,
 - (ii) a certified list of the names and addresses of the executive officers of the corporation,

- (iii) a certified copy of the balance sheet of the corporation as at the close of its last completed fiscal year and its auditor's report thereon, and
 - (iv) copies of all forms of investment contracts proposed to be issued by the corporation for sale in Ontario;
- (b) at least \$100,000 of its authorized capital stock has been subscribed and paid in, in cash, and the aggregate of its unimpaired paid-in capital and its surplus amounts to at least \$200,000;
- (c) arrangements satisfactory to the Superintendent have been made for the deposit with a trust company, chartered bank or other suitable depository or depositaries in Canada of qualified assets aggregating in amount, when valued as provided in section 20, not less at any time than the amount for which the corporation, under the terms of its investment contracts, is liable as of such time to pay in cash to the holders of all its investment contracts then outstanding, or aggregating such lesser amount as the Superintendent deems appropriate in the circumstances; except that, in the case of a corporation which maintains with a trust company, chartered bank or other suitable depository or depositaries outside Ontario but in Canada a deposit or deposits of qualified assets in such an aggregate amount or other deposit satisfactory to the Superintendent, no further deposit shall be required. R.S.O. 1950, c. 187, s. 4; 1959, c. 45, s. 1.

5.—(1) No person shall be registered as a salesman unless there has been filed with the Superintendent a written notice to the Superintendent from a registered issuer that such person has been employed, appointed or authorized to sell investment contracts issued by such issuer. Registration
require-
ments

(2) Termination of the employment, appointment or authorization of a person employed, appointed or authorized to sell investment contracts issued by an issuer which has filed with the Superintendent a written notice pursuant to subsection 1 operates as a suspension of the registration of such person as a salesman. R.S.O. 1950, c. 187, s. 5. Suspension
of regis-
tration

6. Every application for registration shall be made to the Superintendent in writing upon the prescribed form and shall be accompanied by the prescribed fee. R.S.O. 1950, c. 187, s. 6. Application
for regis-
tration

Address
for
service

7. Every applicant for registration shall state in the application an address for service in Ontario and all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1950, c. 187, s. 7.

Renewal of
registration

8. Every registration and renewal of registration lapses on the 31st day of March, but any registered issuer or salesman desiring renewal of registration shall on or before the 21st day of March make application for renewal of registration upon the prescribed form with the prescribed fee. R.S.O. 1950, c. 187, s. 8.

Granting of
registration
or renewal

9. The Superintendent shall grant registration or renewal of registration,

- (a) to an issuer applying therefor where the applicant is suitable for registration and the sale of investment contracts issued by such issuer would not be inequitable or tend to work a fraud upon purchasers thereof or be against the public interest; and
- (b) to a salesman applying therefor where the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1950, c. 187, s. 9.

Liability on
contracts

10. Every registered issuer shall, at all times,

- (a) maintain reserves for the payment of its outstanding investment contracts that, together with all future payments to be received by the issuer on such investment contracts, or the portions of such future payments still to be applied to reserves, and with accumulations of interest at an assumed rate provided in the contracts, such rate not to exceed a rate approved by the Superintendent, will attain the face or maturity value specified in the contracts when due, or the amount payable in accordance with the terms of the contracts; or
- (b) maintain reserves of such lesser amount as the Superintendent deems appropriate in the circumstances,

but such reserves shall at no time be less than the amount for which such registered issuer, under the terms of its investment contracts, is liable to pay in cash to the holders of all its investment contracts then outstanding. R.S.O. 1950, c. 187, s. 10.

Investment
of funds

R.S.O. 1960,
c. 71

11. Subject to section 12, a registered issuer may invest its funds only in investments in which a joint stock insurance company may invest its funds under *The Corporations Act*, or in

investments in which a company registered under the *Canadian and British Insurance Companies Act* (Canada) may invest its funds. R.S.O. 1950, c. 187, s. 11. R.S.C. 1952,
c. 31

12.—(1) A registered issuer may acquire and hold for its own use and benefit such real property as is necessary for the transaction of its business, and, upon complying with and subject to *The Mortmain and Charitable Uses Act*, may acquire or hold or construct a building larger than is required for the transaction of its business and may lease any part of the building not so required. Power to
acquire and
hold real
property
R.S.O. 1960,
c. 246

(2) A registered issuer may acquire and hold such real property as is *bona fide* mortgaged to it by way of security, and such real property as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of such real property, but such issuer shall sell any such last-mentioned real property within seven years after it has been so acquired. R.S.O. 1950, c. 187, s. 12. Idem

13.—(1) The Superintendent may suspend or cancel any registration upon any grounds that would justify refusal to grant registration or renewal of registration. Suspension
or cancel-
lation of
registration

(2) The Superintendent may suspend or cancel the registration of an issuer where it appears to him from the statements and reports filed with him or from an inspection or valuation that the issuer will be unable to provide for the payment of its investment contracts at maturity. R.S.O. 1950, c. 187, c. 13. Idem

14. Notwithstanding any order of the Superintendent, a further application may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1950, c. 187, s. 14. Further
application
for regis-
tration

15.—(1) An applicant for registration or renewal of registration or any person who deems himself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal. Appeal

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of. When to be
set down

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. Procedure

(4) The Superintendent shall certify to the registrar of the Court of Appeal the decision appealed from, his reasons therefor, and the documents, inspection reports and evidence, if any, and such other information as he had before him in making the decision. R.S.O. 1950, c. 187, s. 15. Certificate

Filing
statement

16.—(1) Not later than thirty days after the expiration of each quarterly period ending March 31st, June 30th, September 30th and December 31st, every registered issuer shall file with the Superintendent a statement, certified to by its auditor, showing,

- (a) the amount on the last day of the quarterly period required by section 10 to be maintained as reserves by the issuer on all outstanding investment contracts:
- (b) all qualified assets on deposit on the last day of the quarterly period last ended with the trust company, chartered bank or other depositary or depositaries in Canada approved by the Superintendent and the value, when valued as provided in section 20, of such qualified assets as at such date; and
- (c) such information as the Superintendent requires.

Filing
balance
sheet

(2) Not later than ninety days after the expiration of its fiscal year, every registered issuer shall file with the Superintendent a balance sheet and profit and loss statement for such completed fiscal year, certified by two of its directors and reported on by its auditor, and such other financial statements as the Superintendent requires.

Market
value of
securities

(3) The market value of all securities at the date of the statement shall be noted on the balance sheet.

Auditor

(4) The auditor of an issuer registered under this Act shall be a person or firm acceptable to the Superintendent. R.S.O. 1950, c. 187, s. 16.

Inspection

17.—(1) The Superintendent may at any time make or cause to be made an inspection of the books, documents and records of any issuer and of any salesman.

Access on
inspection

(2) Upon any such inspection, the Superintendent or his duly authorized representative is entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the issuer or salesman, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing reasonably required by the Superintendent for the purposes of the inspection. R.S.O. 1950, c. 187, s. 17.

Advertising
and forms

18. The Superintendent may at any time require any issuer or salesman to submit for review any circulars, pamphlets, brochures, specimen contracts, application forms or other documents used by such issuer or salesman in connection with the sale of investment contracts. R.S.O. 1950, c. 187, s. 18.

19.—(1) Every registered issuer shall notify the Superintendent in writing of, Notice of changes by issuer

- (a) any change in its address for service;
- (b) any change in its executive officers; and
- (c) the commencement and termination of the employment, appointment or authorization of each of its salesmen.

(2) Every salesman registered under this Act shall notify by salesman the Superintendent in writing of,

- (a) any change in his address for service; and
- (b) every commencement and termination of his employment, appointment or authorization by a registered issuer. R.S.O. 1950, c. 187, s. 19.

20.—(1) In any statement or balance sheet to be filed with Valuation of assets the Superintendent under this Act, an issuer may value its assets as,

- (a) cash—in the amount thereof in lawful money of Canada;
- (b) first mortgages—in the amount of the balance of the principal sum secured thereby together with all unpaid interest accrued thereon;
- (c) bonds, debentures and other evidences of indebtedness having a fixed term and rate of interest which are not in default as to principal or interest and which in the opinion of the Superintendent are amply secured,
 - (i) if purchased at par, at the par value,
 - (ii) if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made,

but the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase;

- (d) bonds, debentures and other evidences of indebtedness having a fixed term and rate of interest which are in default as to principal or interest or which in the opinion of the Superintendent are not amply secured—at the market value at the date of the statement;
- (e) stocks—at the book value not in excess of the cost to the issuer and in the aggregate not in excess of the aggregate market value at the date of the statement; and

- (f) other securities—at the book value but not in excess of the aggregate market value at the date of the statement,

Idem

R.S.C. 1952,
c. 31

(2) Where any assets consist of securities whose market values are unduly depressed and in respect of which companies registered under the *Canadian and British Insurance Companies Act* (Canada) have been authorized to use values in excess of such market values, such assets may, with the approval of the Superintendent, be valued as authorized under that Act, but, if it appears to the Superintendent that the amount secured by mortgage on any parcel of real estate together with interest due and accrued thereon is greater than the value of such parcel or that such parcel is not sufficient for the loan and interest, he may procure an appraisalment thereof, and, if from the appraised value it appears that such parcel of real estate is not adequate security for the loan and interest, such loan or mortgage shall be valued at an amount not to exceed the appraised value. R.S.O. 1950, c. 187, s. 20.

Extension
of time
prescribed

21. The Superintendent may extend the time for the filing of any statement, balance sheet or other document, or the making of any application for renewal of registration under this Act. R.S.O. 1950, c. 187, s. 21.

Exempted
sales

22. Nothing in this Act prevents the sale of an investment contract by or on behalf of the holder thereof where such sale is not made in the course of continued and successive transactions of like character or by a person whose usual business is the issuance or sale of investment contracts. R.S.O. 1950, c. 187, s. 22.

Offences

23.—(1) Every person who contravenes subsection 1 of section 2, or subsection 1 of section 3, or subsection 2 of section 3 in respect of clause *a* or *b* thereof, is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Idem

(2) Every person who contravenes subsection 2 of section 3 in respect of clause *c* is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Idem

(3) Every person who contravenes any other provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1950, c. 187, s. 23.

Recovery of
penalties

24. No proceedings to recover the penalties provided in section 23 shall be instituted except,

- (a) with the written consent of the Attorney General;
and
- (b) within two years after the offence is committed.
R.S.O. 1950, c. 187, s. 24.

25. The Lieutenant Governor in Council may make Regulations
regulations,

- (a) prescribing the fees payable upon applications for
registration and renewal of registration;
- (b) prescribing forms and providing for their use;
- (c) designating investments or securities as qualified
assets within the meaning of this Act;
- (d) respecting any matter necessary or advisable to
carry out effectively the intent and purpose of this
Act. R.S.O. 1950, c. 187, s. 25.

26. Notwithstanding *The Securities Act*,

R.S.O. 1960,
c. 363 not
to apply

- (a) an investment contract shall be deemed not to be a
security; and
- (b) an issuer shall be deemed not to be an investment
company,

within the meaning of that Act. R.S.O. 1950, c. 187, s. 26.

CHAPTER 195

The Jails Act

1. In this Act,

Interpre-
tation

- (a) "Deputy Minister" means the Deputy Minister of Reform Institutions;
- (b) "Minister" means the Minister of Reform Institutions. R.S.O. 1950, c. 188, s. 1; 1958, c. 45, s. 1.

2. The jails in Ontario are prisons of the Supreme Court. R.S.O. 1950, c. 188, s. 2.

Prisons of
Court

3.—(1) A jail erected in a provisional judicial district under the authority of the Lieutenant Governor in Council, or a building in a provisional judicial district declared so to be by the Lieutenant Governor in Council, is a common jail of the district.

Jails in
districts

(2) The common jails and the industrial farms in the several districts are respectively common jails and industrial farms for all the districts, and any court or magistrate may direct the committal to any of them, either for safe custody or for punishment, of any person who may be lawfully committed by such court or magistrate to the common jail or industrial farm of the district in which the order for committal is made. R.S.O. 1950, c. 188, s. 3.

Jails and
industrial
farms com-
mon for all
districts

4. A person imprisoned in a lock-up in a district may be transferred by order of the Deputy Minister to the common jail in the district town of the district. R.S.O. 1950, c. 188, s. 4; 1958, c. 45, s. 2.

Transfer
from lock-
up to com-
mon jail

5. The Lieutenant Governor may appoint a jailer of a common jail in a provisional judicial district who shall perform all the duties and be under and subject to all the liabilities that the jailers of the common jails in counties perform and are subject to, and shall give such security for the due performance of the duties of his office as the Lieutenant Governor in Council prescribes, and every such jailer shall be paid out of money appropriated by the Legislature for that purpose such sums of money annually as the Lieutenant Governor in Council thinks reasonable for the services performed. R.S.O. 1950, c. 188, s. 5.

Appoint-
ment of
jailer

Plans for
jails

6. Every jail shall be constructed and built according to a plan approved by the Minister and sanctioned by the Lieutenant Governor in Council, and no jail built after the 4th day of March, 1868, in a county, otherwise than according to a plan so approved and sanctioned, or which does not, after its completion, receive the approval of the Minister, shall be deemed to be in law the jail of such county. R.S.O. 1950, c. 188, s. 7; 1958, c. 45, s. 4.

Consideration of
plans

7. The Deputy Minister, before deciding upon the plan of a jail most proper to be adopted, or approving a jail after its completion, shall take into consideration,

- (a) the nature and extent of the ground upon which the jail has been or is to be built;
- (b) its relative situation to any street and buildings, and to any river or other water supply;
- (c) its comparative elevation and capability of being drained;
- (d) the material of which it has been or is to be constructed;
- (e) the necessity of guarding against cold and dampness, and of providing properly for ventilation and light for each corridor;
- (f) the proper classification of prisoners, having regard to age, sex, and cause of confinement;
- (g) the best means of ensuring their safe custody without the necessity of resorting to severe treatment;
- (h) the due accommodation of the jailer and turnkeys, so that they may have ready access to the prisoners and conveniently oversee them;
- (i) the prevention of any intercourse between prisoners and persons outside the walls of the building;
- (j) the prevention of nuisances from whatever cause, and the necessity of providing proper and sufficient sanitary conveniences;
- (k) the combining provision, as well for the reformation of convicts, as far as may be practicable, as for their employment, in order that the jail may really serve as a place of correction;
- (l) the admission of prisoners to air and exercise outside the walls of the building; and
- (m) the enclosure of the yard and premises with a secure wall. R.S.O. 1950, c. 188, s. 8; 1958, c. 45, s. 5.

8.—(1) If the Deputy Minister at any time finds that the common jail in any county or city is out of repair or is unsafe or unfit for the confinement of prisoners, or is not constructed or maintained in conformity with section 7, or does not afford sufficient space or room for the number of prisoners usually confined therein, he shall forthwith report the fact to the Lieutenant Governor, and shall at the same time furnish a copy of his report to the council of such county or city. R.S.O. 1950, c. 188, s. 9 (1); 1958, c. 45, s. 6 (1). Unfit jails

(2) The council shall thereupon appoint a special committee to confer with the Deputy Minister and to arrange with him as to the repairs, alterations or additions that are deemed necessary to remedy the defects reported upon, and to report the same to the council. R.S.O. 1950, c. 188, s. 9 (2); 1958, c. 45, s. 6 (2). Conference with Deputy Minister

(3) If the Deputy Minister and the committee do not agree upon what repairs, alterations and additions are necessary, the matter shall be referred to the Lieutenant Governor in Council to decide, and his decision shall be reported to the council. R.S.O. 1950, c. 188, s. 9 (3); 1958, c. 45, s. 6 (3). Case of disagreement

(4) It is the duty of the council, by by-law, to provide for the making of the repairs, alterations or additions so arranged for and reported or decided upon, and for the appropriation of any money that may be required for that purpose, and in default thereof the council may be proceeded against at the instance and prosecution either of the Attorney General or of any private prosecutor, to compel the making by the council of such repairs, alterations or additions. R.S.O. 1950, c. 188, s. 9 (4). By-law for repairs

(5) The Deputy Minister and the special committee of the county or city council shall, in arranging the particulars of the necessary repairs, alterations or additions, have due regard to the plan of the jail and to the ability of the council to meet the expense thereof, and in the case of alterations or additions, shall make the same as few and inexpensive as, in their opinion, the requirements of this Act and of the public service will admit. R.S.O. 1950, c. 188, s. 9 (5); 1958, c. 45, s. 6 (4). Repairs to be proportioned to circumstances and resources of council

9. The jailer shall furnish to the sheriff at the opening of every assize court a calendar in the form prescribed by the Minister of the prisoners then in his custody and shall have ready for delivery to the sheriff such of the prisoners in his custody as may be required at the assize court, the court of general sessions of the peace or the county or district court judges' criminal court. 1959, c. 46, s. 1. Duties of jailer re assize

10.—(1) Where the number of prisoners confined in the jail of a county during two years does not exceed on an aver- Transfer of prisoners

age six *per diem* for either of such years and the Deputy Minister reports to the Lieutenant Governor that it would be proper that an agreement be made for keeping the prisoners of such county in the jail of an adjoining county, the council of the first-mentioned county may agree with the council of the adjoining county for keeping and maintaining such prisoners in the jail of the adjoining county. R.S.O. 1950, c. 188, s. 11 (1); 1958, c. 45, s. 8.

How
average
reckoned

(2) The two years shall be the two years ending on the 31st day of December immediately preceding the making of the agreement. R.S.O. 1950, c. 188, s. 11 (2).

Sanction by
Lieutenant
Governor
in Council

(3) If such agreement is made, the Lieutenant Governor in Council may sanction it, in which case he shall issue a proclamation declaring that from a day to be named therein the jail of the adjoining county shall also be the common jail of the first-mentioned county, and it shall so continue from that day until the Lieutenant-Governor in Council issues a proclamation terminating the agreement. R.S.O. 1950, c. 188, s. 12.

Prerequi-
sites to
sanction

(4) No such sanction shall be given until the Deputy Minister has reported that a sufficient lock-up for the safe custody of prisoners held or committed for trial in the first-mentioned county or in custody prior to their committal for trial or pending their removal to the county jail, reformatory or penitentiary has been provided in or near the county town of the first-mentioned county. R.S.O. 1950, c. 188, s. 13 (1); 1958, c. 45, s. 9 (1).

Magistrate
may commit
to jail of
adjoining
county

(5) Nothing in this section prevents the imprisonment of any such prisoner in the jail of the adjoining county if the committing magistrate deems it expedient that he should be imprisoned therein. R.S.O. 1950, c. 188, s. 13 (2); 1958, s. 45, s. 9 (2).

Lock-up

(6) The lock-up may be either the building theretofore used as the jail of the first-mentioned county or part thereof or some other building approved by the Deputy Minister. R.S.O. 1950, c. 188, s. 13 (3); 1958, c. 45, s. 9 (3).

Duty of
county
council as
to lock-up

(7) It is the duty of the county council to see that the lock-up is always kept in a proper condition for the reception of prisoners. R.S.O. 1950, c. 188, s. 15; 1958, c. 45, s. 10.

Expenses of
transferring
prisoners

(8) The county at whose instance such first-mentioned proclamation has been issued shall bear all expenses incurred in respect of the conveying of prisoners to or from the jail of the adjoining county in excess of those that would have been incurred had the prisoners been detained in a jail in the county town of the first-mentioned county. R.S.O. 1950, c. 188, s. 14.

(9) An agreement made under this section shall continue, subject to any variation of the terms thereof by mutual agreement, for five years, and shall after such five years continue until varied by agreement, or if the councils are unable to agree, until varied by arbitration under *The Municipal Act*, but either council may at any time apply to the Lieutenant-Governor in Council to terminate the agreement.

Term for which agreement to be made

R.S.O. 1960, o. 249

(10) The Lieutenant Governor in Council may terminate the agreement upon the application of either of the councils interested or of his own motion from a day to be named in his proclamation in that behalf and from such day the jail of the adjoining county ceases to be the common jail of the first-mentioned county. R.S.O. 1950, c. 188, s. 16.

How terminated

(11) The issue of a proclamation under this section is conclusive evidence that the events have happened and that the conditions exist which authorize the issue thereof. R.S.O. 1950, c. 188, s. 17.

Effect of proclamation as evidence

11.—(1) The Lieutenant Governor in Council has, with respect to persons in custody undergoing imprisonment for offences against any law of Ontario or a by-law, or charged with any such offence, or for whose arrest a warrant has been issued, all the powers conferred upon him in respect of offences against the laws of Canada by the *Prisons and Reformatories Act* (Canada), the provisions of which apply *mutatis mutandis*. R.S.O. 1950, c. 188, s. 18 (1).

Transfer of prisoners

R.S.C. 1952, c. 217

(2) The cost of the maintenance of a prisoner transferred under this section shall be paid and borne by the county from the jail of which he is transferred, and in case of dispute as to the amount that is payable, shall be determined by the Deputy Minister. R.S.O. 1950, c. 188, s. 18 (2); 1958, c. 45, s. 11 (1).

Cost of maintenance

12. A person sentenced to imprisonment in a reformatory may be detained in the common jail until the proper officer requires the delivery to him of such person for conveyance to the reformatory in which he or she is to be imprisoned. R.S.O. 1950, c. 188, s. 19.

Detention in jail pending removal to reformatory

13.—(1) The Lieutenant Governor in Council may appoint provincial bailiffs, male or female, who shall be employed for the purpose of conveying any person confined in any of the common jails of Ontario or other place of custody and liable to be removed from there to a provincial institution in which the person is lawfully directed to be confined, and also in the performance of such other duties as are assigned to them by the Chief Inspector of the Department of Reform Institutions. R.S.O. 1950, c. 188, s. 20 (1); 1958, c. 45, s. 12 (1).

Appointment of bailiffs

**Temporary
bailiffs**

(2) The Deputy Minister may authorize the employment of a suitable person to act as a temporary bailiff, and a temporary bailiff has the same powers and may perform the same duties as a provincial bailiff and shall be paid for such temporary services as the Minister directs. R.S.O. 1950, c. 188, s. 20 (2); 1958, c. 45, s. 12 (2).

**Warrant
for removal**

(3) Such a bailiff may convey a person from the jail or other place of custody to such provincial institution without further authority than the warrant of the Deputy Minister, which shall be issued in duplicate, and the person shall be received into the institution and there detained subject to the rules, regulations and discipline thereof until discharged by due course of law or removed under competent authority. R.S.O. 1950, c. 188, s. 21; 1958, c. 45, s. 13.

**Powers of
bailiffs**

(4) The bailiff, in the conveyance of the person to a provincial institution, may secure and convey him in and through any county or district through which the bailiff may have to pass, and until the person has been delivered to and placed in the institution, the bailiff has, in every part of Ontario, the same power and authority over and with regard to him, and to command the assistance of any person to prevent his escape, and to recapture him in case of an escape, as the sheriff of the county or district in which he was convicted or confined would have had in conveying him from one part to another of that county or district. R.S.O. 1950, c. 188, s. 22.

**Bailiffs to
give and
take receipts
for persons
in their
charge**

(5) The bailiff shall give to the jailer one of the duplicates of the warrant and a receipt for every person delivered to him, and shall thereupon with all convenient speed convey and deliver up the person with the other duplicate to the superintendent or other official head of the provincial institution, who shall give his receipt in writing for every person so received by him to the bailiff, and every such person shall be kept in the institution until discharged by due course of law or removed under competent authority. R.S.O. 1950, c. 188, s. 23; 1958, c. 45, s. 14.

**Employ-
ment of
prisoners
outside jail**

14.—(1) The Lieutenant Governor in Council may direct or authorize the employment beyond the limits of the common jail upon any work or duty, the nature of which is specified in the order in council, of any person who is sentenced to be imprisoned with hard labour in the jail under any statute of Ontario or for the breach of a by-law of any municipal corporation or board of commissioners of police. R.S.O. 1950, c. 188, s. 25.

**Discipline of
jail to be
observed
during em-
ployment**

(2) Such a prisoner shall, during such employment, be subject to the rules, regulations and discipline of the jail. R.S.O. 1950, c. 188, s. 26, *amended*.

(3) No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. R.S.O. 1950, c. 188, s. 27. Supervision

(4) Every street, highway or public thoroughfare on which prisoners pass in going to or returning from their work, and every place where they may be employed under this Act, shall, while so used, be deemed to be a part of the jail for the purposes of this Act. R.S.O. 1950, c. 188, s. 28. What to be deemed part of jail

15.—(1) An account shall be kept of the amount earned by the labour of prisoners imprisoned in a common jail, and such amount shall be divided between the Province and the county in proportion to the amount contributed by them respectively towards the care and maintenance of the prisoners. Division of earnings of prisoners

(2) The division shall be made by such officer, or other person, and at such time as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 188, s. 29. How and when made

(3) In the case of a county in which a city or separated town is situate, the share of such earnings that the city or town is entitled to receive from the county shall, in case the councils are unable to agree, be determined annually by arbitration under *The Municipal Act*. R.S.O. 1950, c. 188, s. 30. Division of earnings between county and city or town
R.S.O. 1960, c. 249

16.—(1) No jailer, keeper or other officer of a jail, lock-up or industrial farm shall sell, lend, use, or give away, or knowingly permit or suffer any intoxicating liquor within the meaning of *The Liquor Control Act* to be sold, used, lent or given away to any prisoner or to any person committed to an industrial farm, or to be brought into it, other than as is prescribed by or given by the direction of a legally qualified medical practitioner. No intoxicating liquor to be given to prisoners by officers
R.S.O. 1960 c. 217

(2) No person shall give, convey or supply to any prisoner confined in a jail or industrial farm, any intoxicating liquor within the meaning of *The Liquor Control Act* otherwise than as authorized by this Act. by any person

(3) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of \$100. Offence

(4) For a second offence of the like nature by such jailer, keeper or other officer, he shall also forfeit his office. R.S.O. 1950, c. 188, s. 31. Second offence by officer

CHAPTER 196

The Judges' Orders Enforcement Act

1.—(1) Where jurisdiction is given to a judge as *persona designata* and where the statute under which he acts does not provide otherwise, his orders shall be entered in the same way as orders made by him in matters pending in the court of which he is a judge and may be enforced in the same way as judgments of the court. Enforcing orders of judge as *persona designata*

(2) The affidavits used upon an application to a judge as *persona designata* shall be filed with the clerk of the court as upon ordinary applications in matters pending in the court. Filing of affidavits

(3) The same fee shall be paid for such filings and upon an order made as in ordinary proceedings in the court. Fees R.S.O. 1950, c. 189, s. 1.

2. Where an application is made to a judge as *persona designata* and the statute under which he acts does not provide otherwise, he has the same jurisdiction as to costs and otherwise as in matters in court under his ordinary jurisdiction. Jurisdiction as to costs, etc. R.S.O. 1950, c. 189, s. 2.

3. An appeal lies from an order made by a judge as *persona designata* to the Court of Appeal, Appeal

(a) if the right of appeal is given by the statute under which the judge acted; or

(b) if no such right of appeal is given, then by leave of the judge who made the order or by leave of the Court of Appeal. 1957, c. 54, s. 1.

CHAPTER 197

The Judicature Act**1. In this Act,**Interpre-
tation

- (a) "action" means a civil proceeding commenced by writ or in such other manner as is prescribed by the rules;
- (b) "cause" includes an action, suit or other original proceeding between a plaintiff and a defendant;
- (c) "county" includes a district;
- (d) "county court" includes a district court;
- (e) "county town" includes a district town;
- (f) "Court of Appeal" means the Court of Appeal for Ontario;
- (g) "defendant" includes a person served with a writ of summons or process, or served with notice of, or entitled to attend a proceeding;
- (h) "finance committee" means the finance committee appointed by the Lieutenant Governor in Council under this Act;
- (i) "High Court" means the High Court of Justice for Ontario;
- (j) "judge" includes a chief justice and an *ex officio* judge;
- (k) "judgment" includes an order;
- (l) "Master of the Supreme Court" includes an assistant master;
- (m) "matter" includes every proceeding in the court not in a cause;
- (n) "party" includes a person served with notice of or attending a proceeding, although not named on the record;
- (o) "petitioner" includes a person making an application to the court, either by petition, motion or summons, otherwise than as against a defendant;

- (*p*) "plaintiff" includes a person asking any relief otherwise than by way of counterclaim as a defendant against any other person by any form of proceeding;
- (*q*) "pleading" includes a petition or summons, the statement in writing of the claim or demand of a plaintiff, of the defence of a defendant thereto, and of the reply of the plaintiff to a counterclaim of a defendant;
- (*r*) "proper officer", where the expression is used with respect to a duty to be discharged under this Act or the rules and the duty has been discharged by a particular officer, means that officer and, where the expression is used in respect of a new duty under this Act or the rules, means the officer to whom the duty is assigned by this Act or by the rules, or, if it is not assigned to any officer, means such officer as is from time to time directed to discharge the duty, if it relates to the Court of Appeal, by the Chief Justice of Ontario or, if it relates to the High Court, by the Chief Justice of the High Court;
- (*s*) "rules" means the rules of court;
- (*t*) "Rules Committee" means the Rules Committee established under this Act;
- (*u*) "Supreme Court" means the Supreme Court of Ontario. R.S.O. 1950, c. 190, s. 1.

CONSTITUTION AND JUDGES OF SUPREME COURT

Jurisdiction
of Supreme
Court

2. The Supreme Court shall be continued as a superior court of record, having civil and criminal jurisdiction, and it has all the jurisdiction, power and authority that on the 31st day of December, 1912, was vested in or might be exercised by the Court of Appeal or by the High Court of Justice or by a divisional court of that court, and such jurisdiction, power and authority shall be exercised in the name of the Supreme Court. R.S.O. 1950, c. 190, s. 2.

Branches

3. The Supreme Court shall continue to consist of two branches, the Court of Appeal for Ontario and the High Court of Justice for Ontario. R.S.O. 1950, c. 190, s. 3.

Court of
Appeal

4.—(1) The Court of Appeal shall consist of a chief justice who shall be the president thereof and who shall be called the Chief Justice of Ontario, and nine other judges to be called justices of appeal.

Absence
of Chief
Justice

(2) Where the Chief Justice of Ontario is absent from the County of York or where he is for any reason unable or un-

willing to act, his powers shall be exercised and his duties performed by the senior justice of appeal. R.S.O. 1950, c. 190, s. 4.

5.—(1) The High Court shall consist of a chief justice who shall be the president thereof and who shall be called the Chief Justice of the High Court, and twenty other judges. R.S.O. 1950, c. 190, s. 5; 1958, c. 46, s. 1. High Court of Justice

(2) Where the Chief Justice of the High Court is absent from Ontario or where he is for any reason unable to act, his powers shall be exercised and his duties performed by the senior judge of the High Court able to act in his stead. 1954, c. 39, s. 1. Absence of C.J.H.C.

6.—(1) The Chief Justice of Ontario has rank and precedence over all the other judges. Rank and precedence

(2) The Chief Justice of the High Court has rank and precedence next after the Chief Justice of Ontario. Idem

(3) The justices of appeal and the other judges have rank and precedence after the Chief Justice of the High Court and among themselves according to seniority of appointment. R.S.O. 1950, c. 190, s. 6. Idem

7. A judge appointed to the Court of Appeal or to the High Court is a judge of the Supreme Court and is *ex officio* a judge of the branch of which he is not a member, and, except where it is otherwise expressly provided, all the judges of the Supreme Court have in all respects equal jurisdiction, power and authority. R.S.O. 1950, c. 190, s. 7. Judges of the Supreme Court

8.—(1) A judge, before entering on the duties of his office, shall take and subscribe the following oath: Oath of office

I do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trust reposed in me as.....
So help me God.

(2) The oath shall be administered to a chief justice before the Lieutenant Governor in Council, to a justice of appeal by the Chief Justice of Ontario, and to a judge of the High Court by the Chief Justice of the High Court, unless the Lieutenant Governor in Council in any case otherwise directs, and in that event before such officer or functionary and in such manner as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 190, s. 8. How oath to be administered

Giving of judgment by judge who resigns or is appointed to another court

9.—(1) Where a judge resigns his office or is appointed to any other court, he may at any time within eight weeks after his resignation or appointment give judgment in any cause, action or matter previously tried by or heard before him, as if he had not so resigned or been appointed.

When to take part in judgment

(2) Where he has heard a cause, action or matter jointly with other judges in the Court of Appeal he may at any time within the period mentioned in subsection 1 take part in the giving of judgment by that court as if he were still a member of it.

Judgment of remaining judges or majority

(3) Where he does not take part in the giving of judgment or where a judge by whom a cause, action or matter has been heard in the Court of Appeal is absent from illness or any other cause or dies, the remaining judges of the court, or, if there is a difference of opinion, a majority of them, may give judgment as if the judge who has so resigned or been appointed or is dead were still a member of the court and taking part in the judgment, and in the case of absence, as if the absent judge were present and taking part in the judgment.

Reading judgment of absent judge

(4) Where a judge who has heard a cause, action or matter in the Court of Appeal is not present when the judgment of the court is delivered, his written judgment may be read by one of the other judges and has the same effect as if he were present. R.S.O. 1950, c. 190, s. 9.

SEAL

Seal

10. There shall be a seal for the Supreme Court which shall be approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 190, s. 10.

JURISDICTION AND LAW

Jurisdiction of Court of Appeal

11.—(1) The Court of Appeal shall exercise that part of the jurisdiction vested in the Supreme Court that on the 31st day of December, 1912, was vested in the Court of Appeal and in the Divisional Courts of the High Court, and such jurisdiction shall be exercised by the Court of Appeal in the name of the Supreme Court.

Jurisdiction of High Court

(2) Except as provided by subsection 1, all the jurisdiction vested in the Supreme Court shall be exercised by the High Court in the name of the Supreme Court. R.S.O. 1950, c. 190, s. 11.

Jurisdiction of Chief Justice and Justices of appeal

12.—(1) All jurisdiction, power and authority that on the 31st day of December, 1912, was vested in or exercisable by the Chief Justice of Ontario or by a justice of appeal, is vested

in and may be exercised by a judge of the Court of Appeal, and shall be exercised in the name of the Supreme Court.

(2) All jurisdiction, power and authority that on the 31st day of December, 1912, was vested in or exercisable by a judge of the High Court is vested in and may be exercised by a judge of the High Court, and shall be exercised in the name of the Supreme Court. R.S.O. 1950, c. 190, s. 12. Jurisdiction of judges of the High Court

13. Upon the request of the judge or judges for or with whom he is requested to sit or act, or upon the request of the Chief Justice of Ontario or of the Chief Justice of the High Court, any judge of the Supreme Court or any retired judge of that Court may sit and act as a judge of either of the branches of the Supreme Court, or perform any other official or ministerial act for or on behalf of any judge absent from illness or any other cause, or in the place of any judge whose office has become vacant, or as an additional judge of the Court of Appeal, and while so sitting and acting, any such judge or retired judge has all the power and authority of a judge of the Supreme Court. R.S.O. 1950, s. 190, c. 13. Provisions for absence or vacancy in office of a judge

14.—(1) Subject to the rules, the courts and the judges thereof, or any commissioner appointed under section 51, may sit and act, at any time and at any place, for the transaction of any part of the business of the courts, or of the judges or commissioner or for the discharge of any duty that by any statute, or otherwise, is required to be discharged. Sittings of courts

(2) Subject to subsection 1, the Court of Appeal shall sit at Toronto. R.S.O. 1950, c. 190, s. 14. Where Court of Appeal to sit

ADMINISTRATION OF JUSTICE

15. In every civil cause or matter, law and equity shall be administered according to the following rules: Rules of law and equity

1. Where a plaintiff claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against a deed, instrument or contract, or against a right, title or claim asserted by a defendant in such cause or matter, or to any relief founded upon a legal right that before the commencement of *The Ontario Judicature Act, 1881* could only have been given by a court of equity, the Supreme Court and every judge shall give to the plaintiff such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purposes properly instituted before the commencement of that Act. Equitable relief
44 V., c. 5

Declaratory
judgments
and orders

2. No action or proceeding is open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the court may make binding declarations of right, whether or not any consequential relief is or could be claimed.

Equitable
defences

3. Where a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by a plaintiff in such cause or matter, or alleges any ground of equitable defence to a claim of the plaintiff in such cause or matter, the court and every judge shall give to every equitable estate, right or ground of relief so claimed and to every ground of equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in a suit or proceeding instituted in that court for the same or the like purpose before the commencement of *The Ontario Judicature Act, 1881*.

44 V., c. 5

Relief that
may be
granted to
defendants

4. The court and every judge also have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff as such defendant has properly claimed by his pleading, and as the court or any judge might have granted in a suit instituted for that purpose by the same defendant against the same plaintiff, and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to the rules or to any order of the court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose, and every person served with any such notice shall henceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

Courts to
take notice
of equitable
rights and
duties

5. The court and every judge shall recognize and take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the

same manner in which the Court of Chancery would have recognized and taken notice of the same in any suit or proceeding duly instituted therein before the commencement of *The Ontario Judicature Act, 1881*. ^{44 V., o. 5}

6. No cause or proceeding shall be restrained by prohibition or injunction, but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, prior to *The Ontario Judicature Act, 1881*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto, but nothing in this Act disables the court from directing a stay of proceedings in any cause or matter pending before it, and any person, whether or not a party to any such cause or matter, who would have been entitled, before the commencement of *The Ontario Judicature Act, 1881*, to apply to a court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, may apply to the court by motion in a summary way, for a stay of proceedings in such cause or matter either generally, or so far as may be necessary for the purposes of justice, and the court shall thereupon make such order as is deemed just. Restraining proceedings
7. Subject to the foregoing provisions for giving effect to equitable rights and other matters of equity and the other express provisions of this Act, the court and every judge shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations and liabilities existing by the common law or created by any statute, in the same manner as they would have been recognized and given effect to before the commencement of *The Ontario Judicature Act, 1881* by any of the courts then existing and whose jurisdiction is now vested in the Supreme Court. Giving effect to legal claims
8. The court in the exercise of the jurisdiction vested in it by this Act in every cause or matter pending before it has power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as it deems just, all such remedies as any of the parties appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them in such cause or matter, so that, as far as possible, all matters so in controversy between the parties may be completely and Multiplicity of proceedings to be avoided

finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

Sanction of
court to
sale under
mortgage
securing
debentures

9. (i) In case bonds or debentures are secured by a mortgage or charge by virtue of a trust deed or other instrument and whether or not provision is contained in the trust deed or other instrument creating such mortgage or charge giving to the holders of such bonds or debentures or a majority, or a specified majority of them, power to sanction the sale, transfer or exchange of the mortgaged or charged premises for a consideration other than cash, and in case any action has been brought or is brought for the purpose of enforcing or realizing upon any such mortgage or charge, or for the execution of the trusts in any such trust deed or other instrument with or without other relief, the court may order a meeting or meetings of the holders of such bonds or debentures to be summoned and held in such manner as the court directs, and if the holders of such bonds or debentures sanction or approve the sale, transfer or exchange of the property so mortgaged or charged for a consideration wholly or in part other than cash, the court may in such action order and approve such sale on such terms in all respects as the court thinks fair and reasonable having regard to the interests of all parties interested in the premises and property so mortgaged or charged, and in such order or by a subsequent order may make provision in such manner, on such terms in all respects as the court deems proper, for the transfer to and vesting in the purchaser or his or its assigns of the whole or any part of the premises and property so mortgaged or charged and so sold, and for the payment of the proper costs, charges and expenses and remuneration of any trustee or trustees under such trust deed or other instrument and of any receiver or receiver and manager appointed by the court, and of any committee or other persons representing holders of such bonds or debentures, and for the distribution or other disposition of the proceeds of such sale, and for the protection of any or all persons whose interests are affected by such order, and for all such incidental, consequential and supplemental matters as the court deems just.
- (ii) The approval of the holders of any such bonds or debentures may be given by resolution passed at a meeting by the votes of the holders of a majority in principal amount of such bonds or debentures, represented and voting in person or by proxy, and

holding not less than 50 per cent in principal amount, or such lesser amount as the court under all the circumstances approves, of the issued and outstanding bonds or debentures in question. R.S.O. 1950, c. 190, s. 15.

16.—(1) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the court in all cases in which it appears to the court to be just or convenient that the order should be made, and any such order may be made either unconditionally or upon such terms and conditions as the court deems just, and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, the injunction may be granted, whether the person against whom it is sought is or is not in possession under any claim of title or otherwise, or, if out of possession, does or does not claim a right to do the act sought to be restrained under a colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable. Injunctions and receivers

(2) An action may be brought in the Supreme Court by or on behalf of the Attorney General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed matter whatsoever that publishes continuously or repeatedly writings or articles that are obscene, immoral, or otherwise injurious to public morals. Mandamus or injunction restraining obscene publications

(3) An action may be brought in the Supreme Court by or on behalf of the Attorney General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed matter whatsoever containing any writing, article or picture tending to insult, degrade, revile or expose to hatred, contempt, ridicule or mockery Her Majesty or any member of the Royal Family. Actions restraining publication of articles or pictures insulting Her Majesty

(4) The court may, in addition to making such order, require the defendant to enter into a recognizance in such sum and during such term as the court requires to carry out the terms of the order and to refrain from the publication of any writing, article or picture of a like nature. Recognizance

(5) Upon the making of such order, the Attorney General may cause a copy thereof to be served personally upon any person and, if the person after the service publishes any such writing, article or picture, he is liable for contempt to the same extent as if he had been a party to the proceedings. Service of order

(6) An action under subsection 2 or 3 may be brought against anyone printing, publishing or distributing any publication of the kind mentioned in subsection 2 or 3. Against whom action may be brought

Inter-
locutory
injunctions

(7) In an action brought under subsection 2, 3 or 6, the judge may on such material as he sees fit grant an interlocutory injunction or mandamus. R.S.O. 1950, c. 190, s. 16.

Interpre-
tation

17.—(1) In this section, "labour dispute" means a dispute or difference between an employer and one or more employees as to matters or things affecting or relating to work done or to be done by the employee or employees or as to the terms and conditions of employment or the rights, privileges or duties of the employer or the employee or employees.

Interim
injunction

(2) An interim injunction to restrain a person from any act in connection with a labour dispute shall be granted only upon at least two days notice to the person or persons to be affected thereby and shall not be for a longer period than four days.

Ex parte
application

(3) An interim injunction under subsection 2 may be granted *ex parte* where the court is satisfied that a breach of the peace, injury to the person or damage to property has occurred or an interruption of an essential public service has occurred or is likely to occur.

Service of
notice

(4) Where the employee or employees to be affected by an interim injunction under this section are members of a labour organization, the notice under subsection 2 shall be deemed to have been given to such employee or employees if personal service thereof is effected upon an officer or agent of such labour organization.

Idem

(5) Where the employee or employees to be affected by an interim injunction under this section are not members of a labour organization, the notice under subsection 1 shall be deemed to have been given to the employee or employees to be affected by the interim injunction if the notice is posted up in a conspicuous place on the business premises of the employer where it can be read by such employee or employees.

Idem

(6) Where some of the employees to be affected by an interim injunction under this section are members of a labour organization and others are not, the notice under subsection 2 shall be deemed to have been given to all such employees if subsections 4 and 5 are complied with. 1960, c. 52, s. 1.

Damages,
etc.

18. Where the court has jurisdiction to entertain an application for an injunction against a breach of a covenant, contract or agreement, or against the commission or continuance of a wrongful act, or for the specific performance of a covenant, contract or agreement, the court may award damages to the party injured either in addition to or in substitution for the injunction or specific performance, and the damages may be

ascertained in such manner as the court directs, or the court may grant such other relief as is deemed just. R.S.O. 1950, c. 190, s. 18.

19. The court has power to relieve against all penalties and forfeitures, and, in granting such relief, to impose such terms as to costs, expenses, damages, compensation and all other matters as are deemed just. R.S.O. 1950, c. 190, s. 19. Relief against penalties, etc.

20.—(1) In any action in which the Attorney General for Canada or the Attorney General for Ontario is a party plaintiff and the other attorney general is a party defendant, the court has jurisdiction to make a declaration as to the validity in whole or in part of any Act of the Legislature or any Act of the Parliament of Canada that by its terms purports to have force in Ontario, though no further relief be prayed or sought. Jurisdiction as to validity of statutes

(2) The judgment in any such action is subject to appeal as in ordinary cases. R.S.O. 1950, c. 190, s. 20. Appeal

21. Where an action is brought in the Supreme Court for a cause of action for which a suit or action has been brought and is pending between the same parties or their representatives in any place or country out of Ontario, the court may make an order staying proceedings in the Supreme Court until satisfactory proof is offered to the court that the suit or action so brought in such other place or country out of Ontario is determined or discontinued. R.S.O. 1950, c. 190, s. 21, *amended*. Stay of proceedings if action for same cause is pending out of Ontario

22. In questions relating to the custody and education of infants and generally in all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity prevail. R.S.O. 1950, c. 190, s. 22. Rules of equity prevail

23. Sections 15 to 22 are in force and have effect in all courts so far as the matters to which they relate are cognizable by such courts. R.S.O. 1950, c. 190, s. 23. Sections 15 to 22 apply to all courts

APPEALS

24. No order of the High Court or of a judge thereof made with the consent of the parties is subject to appeal, and no order of the High Court or of a judge thereof as to costs only that by law are left to the discretion of the court is subject to appeal on the ground that the discretion was wrongly exercised or that it was exercised under a misapprehension as to the facts or the law or on any other ground, except by leave of the court or judge making the order. R.S.O. 1950, c. 190, s. 24. Certain orders not subject to appeal

Appeals
from inter-
locutory
orders

25. There is no appeal to the Court of Appeal from any interlocutory order whether made in court or chambers, save by leave as provided in the rules. R.S.O. 1950, c. 190, s. 25.

Appeals to
Court of
Appeal

26.—(1) Except where it is otherwise provided by statute and subject to the rules regulating the terms and conditions on which appeals may be brought, an appeal lies to the Court of Appeal from,

- (a) any judgment, order or decision of a judge of the High Court in court, whether at the trial or otherwise;
- (b) any judgment, order or decision of a judge of the High Court in chambers that finally disposes of any cause or matter;
- (c) any judgment, order or decision of a judge in chambers in regard to a matter or practice or procedure that affects the ultimate rights of any party, and, subject to the rules, from any other judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure. 1953, c. 50, s. 1.

Statutory
appeals

(2) The Court of Appeal also has jurisdiction as provided by any Act of the Parliament of Canada or of the Legislature.

New trials

(3) The Court of Appeal also has jurisdiction to hear and determine applications for new trials and applications to set aside verdicts and findings of juries in actions and matters tried or heard in the High Court.

Generality
of s. 11 (1)
not affected

(4) Nothing in this section limits the generality of subsection 1 of section 11. R.S.O. 1950, c. 190, s. 26 (2-4).

Court may
pronounce
proper
judgment

27.—(1) The court upon an appeal may give any judgment that ought to have been pronounced and may make such further or other order as is deemed just.

Power to
draw infer-
ences of
fact and to
give
judgment

(2) The court has power to draw inferences of fact not inconsistent with any finding of the jury that is not set aside, and if satisfied that there are before it all the materials necessary for finally determining the matters in controversy, or any of them, or for awarding any relief sought, it may give judgment accordingly, but if it is of opinion that there are not sufficient materials before it to enable it to give judgment, it may direct the appeal to stand over for further consideration and may direct that such issues or questions of fact be tried and determined and such accounts be taken and such inquiries be made as are deemed necessary to enable it on such further consideration finally to dispose of the matters in controversy.

Where
appeal is
against
part only

(3) The powers conferred by subsections 1 and 2 may be exercised notwithstanding that the appeal is as to part only

of the judgment, order or decision, and may be exercised in favour of all or any of the parties, although they may not have appealed. R.S.O. 1950, c. 190, s. 27.

28.—(1) A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, or because the verdict of the jury was not taken upon a question that the judge at the trial was not asked to leave to the jury, or by reason of any omission or irregularity in the course of the trial, unless some substantial wrong or miscarriage has been thereby occasioned.

New trial
not to be
granted
in certain
cases

(2) If it appears that a substantial wrong or miscarriage was so occasioned but it affected part only of the matter in controversy or some or one only of the parties, the court may give final judgment as to any part or any party not so affected, and direct a new trial as to the other part only, or only as to the other parties. R.S.O. 1950, c. 190, s. 28.

Judgment
as to one
part and
new trial
as to others

29. A new trial may be ordered upon any question without interfering with the decision upon any other question. R.S.O. 1950, c. 190, s. 29.

New trial
may be
ordered on
any
question

30. Where the jury disagrees or makes no finding on which judgment can be entered, the court may, on the application of the defendant, dismiss the action on the ground that there is no evidence to warrant a judgment for the plaintiff, or that for any other reason he is not entitled to judgment. R.S.O. 1950, c. 190, s. 30.

Disagree-
ment of
jury

31. In any cause or matter pending before the Court of Appeal, any direction incidental to it not involving the decision of the appeal may be given by a judge of that court, and a judge of that court may, during vacation, make any interim order that he thinks fit to prevent prejudice to the claim of any of the parties pending an appeal, but every such order is subject to appeal to the Court of Appeal. R.S.O. 1950, c. 190, s. 31.

Power of
Judge of
Court of
Appeal

EFFECT OF JUDICIAL DECISIONS

32.—(1) If a judge deems a decision previously given to be wrong and of sufficient importance to be considered in a higher court, he may refer the case before him to the Court of Appeal.

Decisions
may be
referred to
Court of
Appeal

(2) Where a case is so referred, it shall be set down for hearing, and notice of hearing shall be given in like manner as in the case of an appeal to the Court of Appeal. R.S.O. 1950, c. 190, s. 32.

Procedure

CONSTITUTIONAL QUESTIONS

Notice to be
given
before Act
declared
invalid

33.—(1) Where in an action or other proceeding the constitutional validity of any Act or enactment of the Parliament of Canada or of the Legislature is brought in question, it shall not be adjudged to be invalid until after notice has been given to the Attorney General for Canada and to the Attorney General for Ontario.

Form of
notice

(2) The notice shall state what Act or part of an Act is in question and the day on which the question is to be argued, and shall give such other particulars as are necessary to show the constitutional point proposed to be argued.

Six days
notice

(3) Subject to the rules, the notice shall be served six days before the day named for the argument.

Right of
Attorneys
General to
be heard

(4) The Attorney General for Canada and the Attorney General for Ontario are entitled as of right to be heard either in person or by counsel notwithstanding that the Crown is not a party to the action or proceeding. R.S.O. 1950, c. 190, s. 33.

Right of
Attorneys
General
to appeal

(5) Where in an action or proceeding to which this section applies the Attorney General for Canada or the Attorney General for Ontario appears in person or by counsel, each shall be deemed to be a party to the action or proceeding for the purpose of an appeal from any adjudication as to the constitutional validity of any Act or enactment in question in the action or proceeding and each has the same rights with respect to an appeal as any other party to the action or proceeding. 1959, c. 47, s. 1.

WHERE NO ACTION OR EXTRAORDINARY REMEDY LIES

Proceedings
not to lie

34. No action and no proceeding by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted against the Treasurer of Ontario, his representative or appointee, whether in any such person's public or private capacity, for anything done or omitted or proposed or purported to be done or omitted in connection with the administration or carrying out of *The Succession Duty Act*. R.S.O. 1950, c. 190, s. 34.

R.S.O. 1960,
c. 386

INTEREST

Interest
may be
allowed
as hereto-
fore

35. Interest is payable in all cases in which it is now payable by law or in which it has been usual for a jury to allow it. R.S.O. 1950, c. 190, s. 35.

36.—(1) On the trial of an issue or on an assessment of damages upon a debt or sum certain, payable by virtue of a written instrument at a time certain, interest may be allowed from the time when the debt or sum became payable. When allowable on debts certain and overdue

(2) If such debt or sum is payable otherwise than by virtue of a written instrument at a time certain, interest may be allowed from the time when a demand of payment was made in writing, informing the debtor that interest would be claimed from the date of the demand. When allowable after demand of payment

(3) In actions for the conversion of goods or for trespass *de bonis asportatis*, the jury may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon. R.S.O. 1950, c. 190, s. 36. Interest by way of damages in certain actions

37. Unless otherwise ordered by the court, a verdict or judgment bears interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, notwithstanding that the entry of judgment has been suspended by a proceeding in the action including an appeal. R.S.O. 1950, c. 190, s. 37. Interest on judgments

CERTIFICATES OF LIS PENDENS

38.—(1) The institution of an action or the taking of a proceeding in which any title to or interest in land is brought in question shall not be deemed notice of the action or proceeding to any person not a party to it until, where the land is registered under *The Land Titles Act*, a caution is registered under that Act, or in other cases, until a certificate, signed by the proper officer of the court, has been registered in the registry office of the registry division in which the land is situate. Action, etc., not notice unless caution or certificate registered

R.S.O. 1960, c. 204

(2) The certificate may be in the following form: Form

I certify that in an action or proceeding in the Supreme Court of Ontario between *A. B.*, of, and *C. D.*, of, some title or interest is called in question in the following land: (*describing it*).

Dated at (*stating place and date*).

(3) Subsection 1 does not apply to an action or proceeding for foreclosure or sale upon a registered mortgage. R.S.O. 1950, c. 190, s. 38. Exception

39.—(1) Where a caution or certificate has been registered and the plaintiff or other party at whose instance it was issued does not in good faith prosecute the action or proceeding, a judge of the High Court may at any time make an order vacating the caution or certificate. Order vacating caution or certificate

Where land,
etc., not
claimed

(2) Where a caution or certificate has been registered and the plaintiff's claim is not solely to recover land or an estate or interest in land but to recover money or money's worth, chargeable on or payable out of land, or some estate or interest in it, or for the payment of which he claims that the land or such estate or interest ought to be subjected, or where the plaintiff claims land or some estate or interest in land, and, in the alternative, damages or compensation in money or money's worth, a judge of the High Court may at any time make an order vacating the caution or certificate upon such terms as to giving security or otherwise as is deemed just.

Upon other
grounds

(3) A judge of the High Court may at any time vacate the registration upon any other ground that is deemed just.

Costs

(4) On an application under this section, the judge may order any of the parties to it to pay the costs of any of the other parties to it, or may make any other order with respect to costs that under all the circumstances is deemed just.

Appeal and
registration

(5) The order vacating a caution or certificate is subject to appeal according to the practice in like cases, and may be registered in the same manner as a judgment affecting land on or after the fourteenth day from the date of the order, unless the order is meanwhile reversed or its registration is postponed or forbidden by an order of a judge of the High Court.

Effect

(6) Where a caution or certificate is vacated, any person may deal in respect to the land as fully as if the caution or certificate had not been registered, and it is not incumbent on any purchaser or mortgagee to inquire as to the allegations in the action or proceeding, and his rights are not affected by his being aware of such allegations. R.S.O. 1950, c. 190, s. 39.

COURT OF APPEAL

Hearing of
appeals

40.—(1) Except where otherwise provided, every appeal to the Court of Appeal shall be heard before not fewer than three justices of appeal sitting together, and always before an uneven number of justices. R.S.O. 1950, c. 190, s. 40 (1).

Divisions

(2) The Court of Appeal may sit in one division or in two or more divisions as the Chief Justice of Ontario directs from time to time. 1954, c. 39, s. 2.

C.J.O. to
determine

(3) The justices to sit from time to time and the appeals to be heard shall be determined by the Chief Justice of Ontario. R.S.O. 1950, c. 190, s. 40 (3).

C.J.O. may
assign cer-
tain work

41.—(1) The Chief Justice of Ontario may assign any justice of appeal not sitting in the Court of Appeal to perform, in Toronto, the work of a judge of the High Court.

(2) Whenever occasion requires, a judge who is not a member of the Court of Appeal may sit in the place of a judge of the Court of Appeal. *Ad hoc judges of Court of Appeal*

(3) Subsection 2 applies where a vacancy occurs in the Court of Appeal by death or resignation of a judge or otherwise, until his successor is appointed. *When judges of one court may sit in another*

(4) A judge who sits in the place of a judge of the Court of Appeal shall be conclusively deemed to have been entitled and qualified to so sit within the meaning of subsections 2 and 3. *Right of judge who sits in place of another not to be questioned*

(5) A judge who has sat in the Court of Appeal on the hearing of any appeal, matter or proceeding therein may give judgment notwithstanding that he has ceased to be a judge of that court. *Judge may give judgment after ceasing to be judge of the Court of Appeal*

(6) A judge shall not sit on the hearing of an appeal from a judgment or order made by himself. R.S.O. 1950, c. 190, s. 41. *Judge not to hear appeal from his own judgment*

42. Except as provided in section 41, neither the Chief Justice of Ontario nor any of the justices of appeal shall, without his consent, be assigned to or required to perform any duty except as such appertains to him as a member of the Court of Appeal. R.S.O. 1950, c. 190, s. 42. *C.J.O. and justices of appeal not to be assigned certain work without consent*

43. The Chief Justice of Ontario, when present, shall preside and, in his absence, the senior justice present shall preside. R.S.O. 1950, c. 190, s. 43. *Presiding judge*

HIGH COURT

44.—(1) Every action and proceeding in the High Court and all business arising out of it, except as herein otherwise expressly provided, shall be heard, determined and disposed of before a judge, and where he sits in court, he constitutes the court. *Business to be disposed of by one judge*

(2) Subject to section 32, a judge of the High Court shall decide all questions coming properly before him, and shall not reserve any case, or any point in a case, for the consideration of the Court of Appeal. *Judge not to reserve questions*

(3) All such arrangements as may be necessary or proper for the holding of any of the courts, or the transaction of business in the High Court, or the arrangement from time to time of judges to hold such courts, or to transact such business, shall be made by the judges of that branch, with power in the Chief *Arrangements for holding of courts*

Justice of the High Court to make such readjustment or re-assignment as is necessary from time to time. R.S.O. 1950, c. 190, s. 44.

WEEKLY COURTS

Ottawa and
London

45.—(1) Sittings of the High Court shall be held in accordance with the rules of court at Ottawa and London on at least one day in each alternate week, except during vacation.

Elsewhere

(2) Nothing in subsection 1 affects any other sittings of the High Court. 1957, c. 55, s. 1.

TRIAL SITTINGS

Sittings
for trials

46.—(1) There shall be as many sittings of the High Court in and for every county as are required for the trial of civil causes, matters and issues and for the trial of criminal matters and proceedings.

Separate
sittings
may be held

(2) Separate sittings may be held for the trial of civil causes, matters and issues that are to be tried without a jury, and separate sittings for those that are to be tried with a jury, and separate sittings may also be held for the trial of criminal matters and proceedings.

Sittings
may be held
concur-
rently

(3) Sittings may be held concurrently or separately as directed by the judges appointing the days therefor or by the judges presiding at the sittings.

Jury cases
to be tried
first

(4) Subject to the rules, where a sitting is held for the trial of civil causes, matters and issues that are to be tried with and for those that are to be tried without a jury, separate lists shall be made and the jury cases shall be first disposed of unless the presiding judge otherwise directs. R.S.O. 1950, c. 190, s. 45 (1-4).

Sittings
to be held
in court
house

(5) The sittings shall be held in the court house of the county or, where accommodation therein is not available, at such other place in the county as the presiding judge directs. 1960, c. 52, s. 2.

Two sittings
yearly in
each county

(6) Subject to the rules, at least two sittings shall be held in each year in and for every county, and additional sittings shall be provided when necessary for the due dispatch of business. R.S.O. 1950, c. 190, s. 45 (6).

Who may
preside

47.—(1) Every such sitting shall be presided over by one of the judges of the Supreme Court, or, on the request in writing of a judge of the Supreme Court, by a retired judge of that court, or by a judge of a county court, or by one of Her Majesty's counsel learned in the law appointed for Ontario.

(2) Such judge or counsel while holding the sittings possesses and enjoys and may exercise all the powers and authorities of a judge of the High Court, and in civil proceedings may reserve the giving of his decision on questions raised at the trial and afterwards give the same, and such decisions have the like force and effect as the decision of a judge of the High Court. R.S.O. 1950, c. 190, s. 46.

Powers of
presiding
judge

48. Where the judge whose duty it is to hold a sittings does not arrive in time or is not able to open court on the day appointed for that purpose, the sheriff may, after 6 o'clock in the afternoon of that day, by proclamation, adjourn the sittings to an hour on the following day to be named by him, and so from day to day until the judge arrives or until other directions from the judge or from the Chief Justice of the High Court are received. R.S.O. 1950, c. 190, s. 47.

Non-arrival
of judge

49.—(1) No sittings shall begin on any day before 9 o'clock in the forenoon, nor, except for special reasons, shall it extend beyond 7 o'clock in the afternoon, and there shall be an intermission of at least half an hour at or near noon.

Hours of
sittings

(2) Failure to observe any of the provisions of subsection 1 does not render the trial or other proceeding void. R.S.O. 1950, c. 190, s. 48.

Non-observ-
ance of
hours

50. Non-jury actions to be tried in any county, except the County of York, may be entered for trial at any sittings of the High Court in such county. R.S.O. 1950, c. 190, s. 49.

Entering
non-jury
actions
for trial

51.—(1) A commission of assize or any other commission, either general or special, may be issued by the Lieutenant Governor in Council assigning to the person therein named the duty of trying and determining within any place or district named for that purpose by the commission, any cause or matter, or any question or issue of fact or of law or partly of fact and partly of law, in any cause or matter depending in the Supreme Court, or for the exercise of any civil or criminal jurisdiction capable of being exercised by the court.

Commis-
sions of
assize and
other com-
missions

(2) A commissioner, when exercising any jurisdiction so assigned to him, shall be deemed to constitute the court. R.S.O. 1950, c. 190, s. 50.

Commis-
sioner to be
a court

ACTIONS ON QUEBEC JUDGMENTS

52. Where an action is brought on a judgment obtained in the Province of Quebec in an action in which the service on the defendant or party sued was personal, no defence that might have been set up to the original action may be made to the action on the judgment. R.S.O. 1950, c. 190, s. 51.

Action on
Quebec
judgment
where
service
personal

Action on
Quebec
Judgment
where
service not
personal

53. Where an action is brought on a judgment obtained in the Province of Quebec in an action in which the service was not personal and in which no defence was made, any defence that might have been set up to the original action may be made to the action on the judgment. R.S.O. 1950, c. 190, s. 52.

Costs

54.—(1) Where an action is brought on a judgment obtained in the Province of Quebec, the costs incurred in obtaining the judgment in that Province are not recoverable without the order of a judge directing their allowance.

Conditions
under which
order may
be made

(2) Such order shall not be made, unless, in the opinion of the judge, the costs were properly incurred, nor if it would have been a saving of expense and costs to have first instituted proceedings in Ontario on the original claim. R.S.O. 1950, c. 190, s. 53.

MANNER AND PLACE OF TRIAL

Certain
actions to
be tried
by a jury

55. Actions of libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution and false imprisonment shall be tried by a jury, unless the parties in person or by their solicitors or counsel waive such trial. R.S.O. 1950, c. 190, s. 54.

Certain
actions
to be tried
without a
jury

56. Actions against a municipal corporation or a board of trustees of a police village for damages in respect of injuries sustained by reason of the default of the corporation in keeping in repair a highway or bridge shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county that constitutes the municipality or in which the municipality or police village is situate. R.S.O. 1950, c. 190, s. 55.

Issues of
fact to
be tried
without
jury

57.—(1) Subject to the rules and except where otherwise expressly provided by this Act, all issues of fact shall be tried and all damages shall be assessed by the judge without the intervention of a jury.

Judge may
direct trial
by jury

(2) The judge may nevertheless direct that the issues or any of them be tried and the damages assessed by a jury. R.S.O. 1950, c. 190, s. 56.

Jury notice

58.—(1) Subject to the rules, if a party desires that the issues of fact be tried or the damages assessed by a jury, he may, at any stage of the proceedings, but not later than the fourth day after the close of the pleadings, or, if notice of trial or assessment is served before that time, within two days after service of such notice or within such other time as is allowed by a judge, file and serve on the opposite party a notice in writing requiring that the issues be tried or the

damages assessed by a jury, and if such notice is given, subject to subsection 3, they shall be tried or assessed accordingly.

(2) A copy of the notice shall be attached to the certified copy of the pleadings prepared for use at the trial. Copy of notice

(3) Notwithstanding the giving of the notice, the issues of fact may be tried or the damages assessed without the intervention of a jury if the judge presiding at the sittings so directs or if it is so ordered by a judge. Jury may be dispensed with

(4) Subsection 1 does not apply to causes, matters or issues over the subject of which the Court of Chancery had exclusive jurisdiction before the commencement of *The Administration of Justice Act of 1873*. R.S.O. 1950, c. 190, s. 57. Subsection 1 not to apply to certain causes, etc. 36 V., c. 8.

59.—(1) Subject to subsection 2, no proviso, condition, stipulation, agreement or statement that provides for the place of trial of an action, matter or other proceeding is of any force or effect. Effect of agreement etc., as to place of trial

(2) Subsection 1 does not apply unless and until the defendant moves to change the place of trial. R.S.O. 1950, c. 190, s. 58. Motion by defendant to change venue

60.—(1) Where an order is made changing the place of trial from one county to another on the ground that a fair trial cannot be had in the first-mentioned county, the first-mentioned county shall pay to the county in which the trial is held all additional expenses that the last-mentioned county incurs by reason of the change of venue. Change of venue, payment of additional expense

(2) Where an order is made changing the place of trial from a provisional judicial district to a county on the ground that a fair trial cannot be had in the district, the county shall be repaid all additional expenses that it incurs by reason of the change of venue out of the Consolidated Revenue Fund, and where an order is made changing the place of trial from a county to a provisional judicial district on the ground that a fair trial cannot be had in the county, all additional expenses incurred by reason of the change of venue shall be repaid to the Treasurer of Ontario by the county. Idem

(3) Any amount payable by one county to another or by a county to the Treasurer of Ontario under this section is a debt recoverable by the county or the Treasurer of Ontario, as the case may be, by action in any court of competent jurisdiction. R.S.O. 1950, c. 190, s. 59. Recovery of expenses

JURY TRIALS

Agreement
of five
jurors to
be sufficient

61.—(1) It is sufficient if five of the jurors agree, and a verdict rendered or question answered by five jurors has the same effect as a verdict or answer given by six jurors. R.S.O. 1950, c. 190, s. 60 (1); 1955, c. 36, s. 1 (1).

Not neces-
sary for
same five
jurors to
agree to all
answers

(2) Where more questions than one are submitted, it is not necessary that the same five jurors agree to every answer. R.S.O. 1950, c. 190, s. 60 (3); 1955, c. 36, s. 1 (2).

Death or
illness of
juror or
discovery
of interest
during trial

62. If at the trial of an action or issue or assessment of damages a juror dies or becomes incapacitated from any cause from continuing to sit or act on the jury, or if it is discovered that a juror has an interest in the result of the proceeding, or is a relative within the degree of first cousin of any of the parties, the judge may discharge him and direct that the trial or assessment proceed on such terms as he deems just with five jurors, and in that case the verdict or answer to a question given by the jury shall be unanimous. R.S.O. 1950, c. 190, s. 61; 1955, c. 36, s. 2.

General or
special
verdicts

63.—(1) In the absence of a direction to the contrary of the judge, a jury may give a general or special verdict, but shall give a special verdict if he so directs and shall not give a general verdict if directed by him not to do so.

Exception

(2) This section does not apply to actions of libel. R.S.O. 1950, c. 190, s. 62.

Answers to
questions

64.—(1) Upon a trial by jury, except in an action of libel, the judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact stated to them by him, and the jury shall answer such questions, and shall not give any verdict. R.S.O. 1950, c. 190, s. 63 (1).

Negligent
acts
specified
by jury
R.S.O. 1960,
c. 172

(2) In an action, tried by a judge and jury, to which subsection 1 of section 106 of *The Highway Traffic Act* applies, the judge may direct the jury to specify negligent acts or omissions that caused the damages or injuries in respect of which the action is brought. 1954, c. 39, s. 3.

Judgment

(3) Judgment may be directed to be entered on the answers to such questions. R.S.O. 1950, c. 190, s. 63 (2).

Malicious
prosecution
actions

65. In actions of malicious prosecution, the judge shall decide all questions both of law and fact necessary for determining whether or not there was reasonable and probable cause for the prosecution. R.S.O. 1950, c. 190, s. 64.

QUASHING CONVICTIONS, ETC.

66.—(1) Where it is desired to move to quash a conviction, order, warrant or inquisition, the proceeding shall be by motion in the first instance instead of by *certiorari*, rule or order *nisi*. Motion substituted for *certiorari*, etc.

(2) Notice of the motion shall be served at least six days before the return day thereof upon the magistrate making the conviction or order, or issuing the warrant, or the coroner making the inquisition, and also upon the prosecutor or informant, if any, and upon the clerk of the peace if the proceedings have been returned to his office, and the notice shall specify the objections intended to be raised. Service of notice of motion

(3) Upon the notice of motion shall be endorsed a copy of subsection 4 and a notice in the following form, addressed to the magistrate, coroner, or clerk of the peace, as the case may be: Endorsement on notice of motion

You are hereby required forthwith after service hereof to return to the office of the Registrar of the Supreme Court at Osgoode Hall, Toronto, the conviction (*or as the case may be*) herein referred to, together with the information and evidence, if any, and all things touching the matter, as fully and entirely as they remain in your custody, together with this notice.

Dated

To A. B.

Magistrate (*or as the case may be*).

C. D.

Solicitor for the Applicant.

(4) Upon receiving the notice so endorsed, the magistrate, coroner or clerk of the peace shall forthwith return to the office of the Registrar of the Supreme Court at Osgoode Hall, Toronto, the conviction, order, warrant or inquisition, and the information and evidence, if any, and all things touching the matter, and the notice served upon him with a certificate endorsed upon it in the following form: Return by magistrate etc.

Pursuant to the within notice I herewith return to this Honourable Court the following papers and documents:

1. The conviction (*or as the case may be*).
2. The information and the warrant issued thereon.
3. The evidence taken at the hearing.
4. (*Any other papers or documents touching the matter*).

And I hereby certify to this Honourable Court that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in this notice of motion.

(5) The certificate has the same effect as a return to a writ of *certiorari* or to an order under the rules. Effect of certificate

(6) The notice is returnable before a judge of the High Court sitting in chambers. Where notice returnable

Limitations

(7) The motion shall not be entertained unless,

- (a) the return day thereof is within six months after the conviction, order, warrant or inquisition; and
- (b) the applicant is shown to have entered into a recognizance with one or more sufficient sureties in the sum of \$100 before a magistrate of the county in which the conviction, order or inquisition was made or the warrant was issued, or before a judge of the county court of that county or before a judge of the High Court, conditioned that the applicant will prosecute the application at his own costs and charges without any wilful or affected delay and that he will pay to the person in whose favour the conviction, order or other proceeding is affirmed his full costs and charges to be taxed according to the course of the court in case the conviction, order or other proceeding is affirmed, or has paid into court the like sum as security that he will do so.

Recognizance to be filed

(8) The recognizance, with an affidavit of its due execution, shall be filed in the office of the Registrar of the Supreme Court.

Powers of judge

(9) The judge has all the powers of the court in the like matters and may order the production of such papers and documents as he deems necessary.

No appeal without leave

(10) No appeal from the order of the judge lies unless leave is granted by a judge of the High Court. R.S.O. 1950, c. 190, s. 65.

Review of proceedings on motion to quash conviction

67. Upon a motion to quash a conviction, it is the duty of the judge to examine and consider the proceedings returned to the court and, if such proceedings show that the person accused has been convicted of any offence known to the law and that there is any evidence to sustain the conviction, the conviction shall be affirmed, but otherwise the conviction shall be quashed, provided that if the evidence returned shows that the accused is guilty of an offence against the law, or that the conviction, though irregular, ought to be amended or drawn so as to duly describe the offence, the conviction shall be affirmed or amended as justice requires. R.S.O. 1950, c. 190, s. 66.

REFERENCES TO REFEREES

Reference for inquiry and report

68.—(1) Subject to the rules and to a right to have particular cases tried by a jury, a judge of the High Court may refer a question arising in an action for inquiry and report either to an official referee or to a special referee agreed upon by the parties.

(2) Subsection 1 does not, unless with the consent of the Crown, authorize the reference to an official referee of an action to which the Crown is a party or of a question or issue therein. R.S.O. 1950, c. 190, s. 67. Where Crown interested

69. In an action,

- (a) if all the parties interested who are not under disability consent, and, where there are parties under disability, the judge is of opinion that the reference should be made and the other parties interested consent; or
- (b) where a prolonged examination of documents or a scientific or local investigation is required that cannot, in the opinion of a court or a judge, conveniently be made before a jury or conducted by the court directly; or
- (c) where the question in dispute consists wholly or partly of matters of account,

Power to refer in certain cases

a judge of the High Court may at any time refer the whole action or any question or issue of fact arising therein or question of account either to an official referee or to a special referee agreed upon by the parties. R.S.O. 1950, c. 190, s. 68.

70.—(1) If it appears in any action that a material question to be determined is the true definition of a boundary line, the question may be referred to a special referee who is an Ontario land surveyor. Reference of boundary-line question to surveyor

(2) The referee shall, by a proper survey as directed by *The Surveys Act*, and upon hearing the evidence adduced by the parties and their counsel, if any, define upon the ground by such posts and monuments as he deems sufficient, the true boundary or division line so in dispute. Proceedings R.S.O. 1960, c. 390

(3) The referee shall make a report to the court and shall therein set forth his mode of procedure and what he has done in the premises, and also such further or other facts and circumstances as are necessary to enable the court finally to determine the question and how the costs should be borne. R.S.O. 1950, c. 190, s. 69. Report

71.—(1) In the case of a reference to a special referee, he shall be deemed to be an officer of the Supreme Court. Special referee, status

(2) The remuneration to be paid to a special referee may be determined by a judge of the High Court. remuneration

(3) The remuneration, fees, charges and disbursements payable to an official referee, and, in the absence of any special scale of remuneration

direction, to a special referee, shall be the same as are payable to a local master.

Where no
fees
payable

(4) Where the judge at the trial instead of trying an action refers the whole action under section 69 to an official referee who is a local registrar or deputy registrar, a local master or other officer of the court, paid wholly or partly by salary, no fees shall be charged by the referee. R.S.O. 1950, c. 190, s. 70.

Referee's
report

72. The referee shall make his findings and embody his conclusions in the form of a report, and his report shall be subject to all the incidents of a report of a master on a reference as regards filing, confirmation, appealing therefrom, motions thereupon and otherwise, including appeals to the Court of Appeal. R.S.O. 1950, c. 190, s. 71.

Transmis-
sion of
evidence
and exhibits

73. The evidence of witnesses examined upon the reference and the exhibits shall forthwith after the making of the report be transmitted by the referee to the proper officer of the court. R.S.O. 1950, c. 190, s. 72.

SURETY BONDS

Interpre-
tation

74.—(1) In this section, "surety company" means a corporation empowered to give bonds by way of indemnity.

Bonds of
company
may be
taken as
security

(2) The Lieutenant Governor in Council may direct that the bond of a surety company named in the order in council may be given as security in all cases where security is ordered to be given by any court or by any judge or officer of any court and in all cases where security for the cost of an appeal or for the prosecution of the appeal is required by any law, rule or practice.

Order in
council
be published
and tabled

(3) Every order in council made under subsection 2 shall be published forthwith in *The Ontario Gazette* and shall be laid before the Assembly within fifteen days after its making if the Assembly is then in session and, if it is not in session, within fifteen days after the opening of the next session.

Other surety
or affidavit
of justifi-
cation not
required

(4) The bond of a surety company named in the order in council is sufficient without any other surety joining in the bond, and an affidavit of justification is not necessary.

Disallow-
ance of
bond on
motion

(5) Notwithstanding anything in this section, any judge or any officer having jurisdiction in the matter may in his discretion disallow any such bond on a motion to disallow it, and upon any evidence that is deemed sufficient. R.S.O. 1950, c. 190, s. 73.

PHYSICAL EXAMINATION OF PARTIES

75.—(1) In any action or proceeding for the recovery of damages or other compensation for or in respect of bodily injury sustained by any person, the court which, or the judge, or the person who by consent of parties, or otherwise, has power to fix the amount of the damages or compensation, may order that the person in respect of whose injury damages or compensation are sought submit himself to a physical examination by a duly qualified medical practitioner or by more than one duly qualified medical practitioners, but no medical practitioner who is a witness on either side shall be appointed to make the examination. Where examination may be ordered

(2) The court, judge or other person may order a second examination or further examinations upon such terms as to costs as are deemed proper. Further examinations

(3) Every such medical practitioner shall be selected by the court, judge or person making the order, and may afterwards be a witness on the trial unless the court, judge or person before whom the action or proceeding is tried otherwise directs. Medical practitioner to be selected by judge and may be a witness R.S.O. 1950, c. 190, s. 74.

(4) In this section, "duly qualified medical practitioner" includes a person licensed to practise dentistry under *The Dentistry Act*. 1951, c. 40, s. 2. Interpretation R.S.O. 1960, c. 91

TENDER OF AMENDS IN TORT ACTIONS

76. A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends, and the tender has the same effect as a tender in an action for the recovery of a debt. Tender of amends in tort cases R.S.O. 1950, c. 190, s. 75.

VESTING ORDERS

77. Where the court has authority to direct the sale of any real or personal property or to order the execution of a deed, conveyance, transfer or assignment of any real or personal property, the court may by order vest the property in such person and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and the order has the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise, for the same estate or interest, to the person in whom the property is so ordered to be vested or, in the case of a chose in action, as if it had been actually assigned to the last-mentioned person. Vesting orders, effect R.S.O. 1950, c. 190, s. 76.

JUDGMENTS FOR ALIMONY

Judgments
for alimony
may be
registered

78.—(1) An order or judgment for alimony may be registered in any registry office in Ontario, and the registration, so long as the order or judgment remains in force, binds the estate and interest that the defendant has in any land in the registry division in which the registration is made, and operates thereon in the same manner and with the same effect as the registration of a charge by the defendant of a life annuity on his land.

Idem

R.S.O. 1960,
c. 204

(2) The order or judgment may also, on the application of the plaintiff, be registered as a charge against any land of the defendant registered under *The Land Titles Act*.

Sale of
land

(3) The court may direct a sale of the land upon a summary application in the alimony action upon notice to all persons interested in the land. R.S.O. 1950, c. 190, s. 77.

COSTS

Determina-
tion of costs

79.—(1) Subject to the express provisions of any statute, the costs of and incidental to all proceedings authorized to be taken in court or before a judge are in the discretion of the court or judge, and the court or judge has full power to determine by whom and to what extent the costs shall be paid.

Rights of
trustees, etc.
preserved

(2) Nothing herein shall deprive a trustee, mortgagee or other person of any right to costs out of a particular estate or fund.

Where costs
to follow
the event

(3) Where an action or issue is tried by a jury, the costs shall follow the event, unless the judge before whom the action or issue is tried in his discretion otherwise orders.

In proceed-
ings before
judicial
officers

(4) Costs of proceedings before judicial officers, unless otherwise disposed of, are in their discretion subject to appeal. R.S.O. 1950, c. 190, s. 78.

PROCEDURE ON APPEALS

Practice and
procedure
on appeals
R.S.O. 1960,
c. 65
1953-54,
c. 51 (Can.)

80. Subject as to appeals under *The Controverted Elections Act* to that Act, and as to appeals and applications for new trials under the *Criminal Code* (Canada) to that Act, the practice and procedure upon appeals to the Court of Appeal shall be that provided by the rules. R.S.O. 1950, c. 190, s. 79.

EXCLUSION OF PUBLIC

Excluding
public from
court

81. When the judge presiding at the hearing or trial of a cause or matter deems it to be in the interest of public decency and morals, he may order that the public be excluded from the court. R.S.O. 1950, c. 190, s. 80.

OFFICES AND OFFICERS

82.—(1) There shall be such officers of the Supreme Court Officers of Supreme Court as are deemed necessary by the Lieutenant Governor in Council for the due dispatch of the business of the court, and such officers, subject to section 100 as to special examiners, shall be appointed by the Lieutenant Governor in Council.

(2) The duties of the officers shall be regulated by the rules Duties and by the terms of any order in council governing such officers.

(3) Where under a statute, rule or order, or in an action or proceeding, anything is directed to be done by the Master of the Supreme Court, any assistant master has, and shall be deemed to have always had, power to act as fully and effectually as the Master of the Supreme Court. Powers of assistant masters R.S.O. 1950, c. 190, s. 81.

83.—(1) Every officer shall, before entering upon the duties Oath of officers of his office, take and subscribe the following oath:

I, of solemnly swear that I will according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfill the duties of the office of without favour or affection, prejudice or partiality to any person. So help me God.

(2) The oath shall be administered by a judge in court. Administration of oath

(3) Where it is not convenient for a person appointed to an office to attend at Toronto to take the oath, it may be taken before the judge of the county court of the county in which the officer resides, and in every such case the judge shall forthwith transmit the oath to and it shall be filed in the office of the Registrar of the Supreme Court at Osgoode Hall, Toronto. Exception R.S.O. 1950, c. 190, s. 82.

84. With the approval of the Lieutenant Governor in Council, every local officer of the Supreme Court, county court clerk, and surrogate registrar, may, by writing under his hand and seal of office, appoint a deputy who may perform all the duties required to be performed by the officer making the appointment. Appointment of deputies by local registrars, etc. R.S.O. 1950, c. 190, s. 83.

85.—(1) In the event of the death, suspension, resignation, retirement or removal of a local registrar, county court clerk or surrogate registrar, the deputy local registrar, deputy county court clerk or deputy surrogate registrar, as the case may be, is *pro tempore* the local registrar, county court clerk or surrogate registrar, as the case may be, until the suspension is terminated or another person has been appointed and has assumed the duties of the local registrar, county court clerk or surrogate registrar, as the case may be. Vacancy in office of local registrar, etc.

Idem

(2) Where there is no deputy local registrar, deputy county court clerk or deputy surrogate registrar, in the absence of or in the event of the death, suspension, resignation, retirement or removal of the local registrar, county court clerk or surrogate registrar, as the case may be, the Crown attorney for the county is *pro tempore* the local registrar, county court clerk or surrogate registrar, as the case may be, until the suspension is terminated or another person has been appointed and has assumed the duties of the local registrar, county court clerk or surrogate registrar, as the case may be. 1954, c. 39, s. 4.

Officers paid
by salary
not to take
fees

86.—(1) Except where in this Act it is otherwise expressly provided, an officer who is paid by salary shall not take for his own benefit, directly or indirectly, any fee or emolument except the salary to which he is entitled, and the fees payable in respect of proceedings in his office are payable to the Crown. R.S.O. 1950, c. 190, s. 84 (1).

Exceptions

(2) Subsection 1 does not apply to the fees of,

- (a) a local registrar appointed before the 1st day of January, 1953, on an examination had before him as a special examiner or on a reference made to him as an official referee;
- (b) a stenographic reporter for copies of shorthand notes of evidence, who is entitled to take the fees prescribed by order in council. R.S.O. 1950, c. 190, s. 84 (2); 1958, c. 46, s. 2.

Return of
fees

87.—(1) Every officer paid wholly or partly by fees, whether commuted or not, shall on or before the 15th day of January in every year, transmit to the Inspector of Legal Offices a just, true and faithful account, verified by his oath, of the amount of fees paid or payable to him in respect of his office during the next preceding calendar year, and such other particulars with reference to the business of his office as the Inspector requires.

Form of
return

(2) The Lieutenant Governor in Council or the minister having charge of the matter may require the return to state any particulars, or to be made in any form that is deemed proper, and the return shall be made accordingly. R.S.O. 1950, c. 190, s. 85.

WHERE OFFICES TO BE KEPT

Certain
officers
to keep
their offices
at Osgoode
Hall

88. The officers in Toronto, save the Official Guardian, special examiners, stenographic reporters and any official referee other than one holding that office *ex officio*, shall keep their offices at Osgoode Hall, in the City of Toronto. R.S.O. 1950, c. 190, s. 86.

89. Unless otherwise directed by the Lieutenant Governor in Council, every local master shall keep his office in the court house of the county for which he is appointed. R.S.O. 1950, c. 190, s. 87; 1960, c. 52, s. 3. Local master to keep office in court house

90. Every local registrar and every deputy registrar shall, if proper accommodation is afforded to him there, keep his office in the court house of the county for which he is appointed, and, until he can obtain such accommodation, he shall keep his office in some convenient place in the county town. R.S.O. 1950, c. 190, s. 88. Certain offices to be kept at court house

91. Except on Saturdays and holidays when they shall be closed, every local registrar's office and the offices of the Supreme Court at Osgoode Hall shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. 1952, c. 44, s. 3. Office hours

SECURITY FROM OFFICERS

92.—(1) Every officer of the Supreme Court, if so required by the Lieutenant Governor in Council, shall give security to Her Majesty for the due performance of the duties of his office in such sum as the Lieutenant Governor in Council directs. Officers to give security if required

(2) The neglect to give such security renders the appointment of the officer void, but the forfeiture of office does not affect any act done by him while he continues to act. R.S.O. 1950, c. 190, s. 90. Consequences of neglecting to do so

SEALS

93.—(1) In the offices of the local registrars and deputy registrars such seals shall be used as the Lieutenant Governor in Council from time to time directs and they shall be impressed on every writ and other document issued out of such offices, and every such writ and document and every exemplification and copy thereof purporting to be sealed with such a seal shall be received in evidence in all courts without further proof thereof. Seals of local registrars and deputy registrars

(2) Until other seals are authorized by the Lieutenant Governor in Council, the seals in use shall continue to be used. R.S.O. 1950, c. 190, s. 91. Seals to be used

OFFICIAL REFEREES

94.—(1) Judges of county courts, the Master of the Supreme Court, registrars, local masters, local registrars, and deputy registrars are official referees for the trial of such questions as are directed to be tried by an official referee. Official referees

Additional
referees

(2) Where the business requires additional official referees, the Lieutenant Governor in Council may appoint them.

Fees of
referees

(3) Subject to subsection 4 of section 71, the fees on a reference or trial shall be paid in money. R.S.O. 1950, c. 190, s. 92, *amended*.

LOCAL MASTERS

Local
masters not
to practice
law, etc.

95. Unless his appointment otherwise provides, no person who is appointed a local master shall engage in the practice of law or act as a notary public or conveyancer. R.S.O. 1950, c. 190, s. 93.

Vacancies,
etc.

96. Where in a county the office of local master is vacant or the local master is absent or ill, any judge of any county court in the county court district may act *pro tempore* as the local master. R.S.O. 1950, c. 190, s. 94.

LOCAL REGISTRARS, EX OFFICIO

Clerks of
district
courts to
be local
registrars

97. Unless another person is appointed, the clerk of the district court is *ex officio* local registrar for his district. R.S.O. 1950, c. 190, s. 95.

STENOGRAPHIC REPORTERS

Steno-
graphic
reporters

98.—(1) The stenographic reporters are officers of the court to which they are appointed, and shall perform such other duties as are assigned to them by the Lieutenant Governor in Council or by the rules.

Reporter's
oath

(2) Every such reporter shall take and subscribe the following oath before a judge of the court to which he is appointed, and the oath shall be filed with the proper officer of that court:

I,, solemnly and sincerely promise and swear that I will faithfully report the evidence and proceedings in each case in which I act as stenographic reporter. So help me God.

R.S.O. 1950, c. 190, s. 96.

Reporters
for county
and surro-
gate courts

99. The Lieutenant Governor in Council may appoint a stenographic reporter for any county court or surrogate court and section 98 applies to a stenographic reporter so appointed. R.S.O. 1950, c. 190, s. 97.

SPECIAL EXAMINERS

Ex officio
special
examiners

100.—(1) Every local registrar, deputy registrar and clerk of the county court is *ex officio* a special examiner for the county for which he is appointed.

Appoint-
ment of
special
examiners

(2) The judges of the Supreme Court may appoint special examiners for the purpose of taking evidence of parties and

witnesses, and a commission under the seal of the court shall be issued to a special examiner so appointed. R.S.O. 1950, c. 190, s. 98 (1, 2).

(3) There shall be at least four special examiners in Toronto. 1959, c. 47, s. 2. Number in Toronto

(4) Where an examination is taken by a stenographer or other person who is not a special examiner, it shall be taken in the presence of the special examiner. Examinations to be taken in presence of special examiner

(5) A special examiner shall not solicit or make request from any suitor, solicitor, or other person, or offer any inducement to have a special examination taken before him, nor shall any one do so on his behalf with his knowledge or assent, on pain of forfeiture of office. Examinations not to be solicited

(6) Where it appears to the Lieutenant Governor in Council that a local registrar, a deputy registrar, or a clerk of a county court, elsewhere than in Toronto, is infirm or ill, or is otherwise unable or unfit to act personally as special examiner, or if he is absent on leave, the Lieutenant Governor in Council may appoint the stenographic reporter for the county court, or some other person to act temporarily or otherwise as such special examiner in his stead. Appointment of special examiners, pro tem

(7) In case of the absence on leave or illness of any other special examiner he may, with the approval of the Chief Justice of Ontario, appoint a deputy to act for him during such absence or illness. R.S.O. 1950, c. 190, s. 98 (4-7). Appointment of deputy by special examiner

COMMUTATION OF FEES

101.—(1) The Lieutenant Governor in Council may commute the fees payable to an officer entitled to take fees to his own use for a fixed annual sum, not exceeding the average income derived from such fees during the next preceding five years. Commutation of fees of certain officers

(2) An annual sum so fixed and any order in council for payment of any such annual sum may be rescinded, and the amount may be increased or diminished, but in no case shall it exceed the average income or fees, as the case may be, during the next preceding five years. R.S.O. 1950, c. 190, s. 99. Amount of commutation may be changed

102.—(1) Every order in council determining a commutation allowance under this Act shall be laid before the Assembly forthwith, if the Assembly is then in session, and, if the Assembly is not then in session, within the first fifteen days after the opening of the next session. Order in council as to commutations to be laid before Assembly

(2) If the Assembly at such session, or, if the session does not continue for three weeks after the order in council is laid Disapproval by Assembly

before the Assembly, then at the next ensuing session, disapproves by resolution of such order in council, either wholly or so far as relates to any person named in it, the order in council, so far as so disapproved, has no effect from the time of the passing of the resolution. R.S.O. 1950, c. 190, s. 100.

INSPECTOR OF LEGAL OFFICES

Inspector
of Legal
Offices

103. The Lieutenant Governor in Council may appoint an officer, to be called the Inspector of Legal Offices, to inspect the offices of the Supreme Court, of local courts, of Crown attorneys, and such other offices connected with the administration of justice as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 190, s. 101.

Duties of
Inspector

104.—(1) In addition to any other duties assigned to him by any Act of the Legislature or by the Lieutenant Governor in Council, the Inspector shall,

- (a) make a personal inspection of the offices mentioned in section 103 and of the books and court papers belonging to them;
- (b) see that proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times and in proper form and order, and that the court papers and documents are properly classified and preserved;
- (c) ascertain that the duties of the officers are duly and efficiently performed;
- (d) see that proper costs and charges only are allowed or exacted;
- (e) ascertain whether uniformity of practice prevails in the offices; and
- (f) report upon all such matters to the Lieutenant Governor.

Inquiries by
Inspector

(2) Where the Inspector has occasion to inquire into the conduct of any officer in relation to his official duties or acts, he may require the officer or any other person to give evidence before him on oath, and for that purpose he has the same power to summon the officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents and to give evidence, as any court has in civil cases.

Books, etc.,
to be pro-
duced for
inspection

(3) The officers shall, when and as often as required by the Inspector, produce for examination and inspection all books and documents that are required to be kept by them,

and shall report to the Inspector all such matters relating to any cause or proceeding as the Inspector requires. R.S.O. 1950, c. 190, s. 102.

(4) Where books, documents or papers have been preserved in a court referred to in section 103, other than the Supreme Court, for so long that it appears they need not be preserved any longer, a judge of the court in which such books, documents or papers are preserved may make an order authorizing the Inspector to cause their destruction. 1953, c. 50, s. 2. Destruction
of docu-
ments

OFFICIAL GUARDIAN

105.—(1) No person shall be appointed Official Guardian unless he is a barrister and solicitor of Ontario of not less than ten years standing. Qualification
of Official
Guardian

(2) The Official Guardian is the guardian *ad litem* of infants and shall perform such other duties as are assigned to him by the rules. Duties

(3) The same costs as are payable to counsel and solicitors are payable to the Official Guardian, but all costs paid to him shall be entered in his books of account or may be paid into court to the credit of an account entitled "Account of the Official Guardian". Costs

(4) Where an estate is small and the amount at the credit of the Account of the Official Guardian is adequate to pay his salary and the disbursements of his office, the court may direct that no costs be paid to him out of the estate. Dispensing
with
payment of
costs out of
small estates

(5) There shall be paid to the Official Guardian for all business done and all costs in respect of it over and above all disbursements, a fixed annual salary of such sum as, in view of the amount of the business done or to be done by him and the sum at the credit of the account, the finance committee deems reasonable and the Lieutenant Governor in Council approves. Remunera-
tion

(6) The salary and disbursements shall be paid monthly out of the moneys that are appropriated by the Legislature for that purpose and the Lieutenant Governor in Council may provide for the payment out of the moneys at the credit of the account into the Consolidated Revenue Fund of amounts equal to such salary and disbursements. Salary and
disburse-
ments

(7) Out of the surplus at the credit of the account shall be transferred to the Suitors Fee Fund Account such amount as the finance committee directs. Idem

(8) If in any year the amount at the credit of the account is insufficient to pay the salary and disbursements, the defi- Deficiency

ciency shall be paid out of such reserve funds as the finance committee directs.

Deputy
Official
Guardian

(9) Subject to the approval of the Lieutenant Governor in Council, the Official Guardian may appoint a deputy to act for him when he is absent from Toronto, or ill, and such deputy has all the powers and shall perform all the duties of the Official Guardian during any such absence or illness.

Qualification
of Deputy

(10) No person shall be appointed as such deputy unless he is a barrister and solicitor of Ontario of not less than ten years standing.

Agents

(11) The Official Guardian may retain solicitors out of Toronto as agents for the purpose of any proceeding being carried on out of Toronto, and a solicitor so retained is entitled to the same costs for the work actually done by him as the Official Guardian would have been entitled to if the work had been done by him, and such costs shall be paid to the Official Guardian and the agent's fees and disbursements shall be paid by the Official Guardian and shall be deemed a disbursement of the Official Guardian.

Audit

(12) The auditor of the Official Guardian appointed by the Lieutenant Governor in Council shall once in every six months transmit to the Provincial Secretary a statement certified by him to be a true statement of the accounts and records of the Official Guardian.

Official
Guardian
not to
practise law,
etc.

(13) If the Lieutenant Governor in Council so directs, the Official Guardian shall not directly or indirectly practise the profession of the law as counsel or solicitor or act as a notary public or conveyancer or do any matter of conveyancing or prepare any paper or document to be used in any court in Ontario except in the discharge of his duties as Official Guardian or of a duty that is assigned to him under this Act.

Penalty

(14) For every contravention of subsection 13, the Official Guardian shall incur a penalty of \$400.

Official
Guardian
not to give
security
for costs

(15) Unless otherwise ordered by the court or a judge, the Official Guardian shall not be required to give security for the costs of any proceeding.

New Official
Guardian

(16) When a new Official Guardian is appointed, he *ipso facto* becomes and is by virtue of his appointment guardian *ad litem* of all infants in the place and stead of his predecessor with the same rights, duties and powers, and the latter or his executors or administrators shall forthwith deliver to the new Official Guardian all letters, papers, documents and books in his or their possession or power relating to matters in which such predecessor acted as official or other guardian *ad litem* of infants, and the new Official Guardian shall forthwith notify all persons concerned of his appointment. R.S.O. 1950, c. 190, s. 103.

ACCOUNTANT

106.—(1) The Accountant of the Supreme Court is a ^{Accountant a corporation sole} corporation sole by the name of "The Accountant of the Supreme Court of Ontario", and as such corporation sole has perpetual succession and may sue and be sued and may plead and be impleaded in any of Her Majesty's courts.

(2) All money, mortgages, stocks, securities and property ^{Money mortgages, etc., to be vested in Accountant} now vested in the Accountant, as such corporation sole, shall continue to be so vested in him, and all money in court and all securities in which money paid into court is invested is vested in him as such corporation sole, subject to this Act.

(3) Where there is a vacancy in the office of Accountant, ^{Where there is no Accountant} such officer or person as is directed by the rules to perform the duties of the office shall be deemed to be and have all the powers of the Accountant.

(4) The expenses of the Accountant's office, including all ^{Expenses of Accountant's office} salaries, are payable out of the moneys that are appropriated therefor by the Legislature, and the Lieutenant Governor in Council may provide for payment out of the income from the funds in court into the Consolidated Revenue Fund of amounts equal to such expenses, and such amounts are the first charge on the income from the funds in court. R.S.O. 1950, c. 190, s. 104.

INVESTMENT OF COURT FUNDS

107.—(1) The finance committee shall continue to be composed of three persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council, and, notwithstanding this or any other Act, the finance committee has the control and management of the money in court and the securities in which it is invested and the investment of such money. ^{Finance committee}

(2) The finance committee may provide for the payment ^{Interest} of interest upon any money paid into court and may fix the rate of interest so paid.

(3) The finance committee may establish such reserve ^{Reserve funds} funds as it deems expedient in the management of the money in court.

(4) Money paid into court shall be invested in the name ^{Investment of court funds} of The Accountant of the Supreme Court of Ontario. R.S.O. 1950, c. 190, s. 105 (1-4).

(5) Any money that is available for investment shall be ^{Investment of money} invested in securities issued by or guaranteed as to principal and interest by Ontario or Canada or by any agency of either. 1960, c. 52, s. 4.

Debentures
invested in
not open
question

(6) Where an investment in debentures of a municipal corporation is made, the validity of the debentures is not thereafter open to question but they shall be deemed to be valid.

Trust
company
may be
employed

(7) The finance committee may employ a trust company to make the investments of money paid into court or as custodian of the securities representing investments of the money, on such terms and conditions as are agreed.

Investment
of court
funds

(8) When an amount exceeding \$50,000 is in court to the credit of an account for investment, the Accountant may, if so directed by the finance committee, notwithstanding any order for payment out of court, withhold payment for three months to enable him to realize upon the securities in which money in court is invested. R.S.O. 1950, c. 190, s. 105 (6-8).

Money, etc.
vested in
Accountant,
Guardian
etc., to be
deemed to
be held in
trust for
Crown

108. All money, securities, effects and real or personal property vested in or held by the Accountant or by the Official Guardian shall be deemed to be vested in them in trust for Her Majesty, but may, nevertheless, be paid out, sold, disposed of, assigned, conveyed or dealt with in accordance with any statute or the rules, or with any judgment, or order of court, or order of the Lieutenant Governor in Council. R.S.O. 1950, c. 190, s. 106.

Payment of
moneys to
which
foreigners
are entitled

109. Where persons who are subjects of a foreign country having a consul in Canada authorized to act as the official representative of such subjects are entitled to moneys that have been paid into court or that are in the hands of an executor or administrator, the moneys may be paid to the consul. R.S.O. 1950, c. 190, s. 107.

Suitors
fee fund

110. The Suitors Fee Fund Account shall be kept and managed by the finance committee, and the Court of Appeal or any judge of the Supreme Court may with the approval of the finance committee apply so much of the money at the credit of the account as may be necessary for the protection of any infant or other person not *sui juris* or *non compos mentis*, on whose behalf proceedings may be had in the court, or may be ordered to be had in another court, and the finance committee may also, from time to time, order to be paid out of the money at the credit of the account any sum required to make good a default in respect of any suitor's money or securities from any mistake, act or omission of any officer of the court, but such payment does not prejudice the right to require the officer or his sureties to make good the loss occasioned by the mistake, act or omission. R.S.O. 1950, c. 190, s. 108.

RULES

Rules
Committee

111.—(1) The Rules Committee shall continue to be composed of,

- (a) the Chief Justice of Ontario, the Chief Justice of the High Court and five other judges of the Supreme Court to be appointed by the Chief Justice of Ontario;
- (b) two county or district court judges who shall be appointed by the Attorney General;
- (c) the Attorney General or such law officer of the Crown as he from time to time appoints;
- (d) the Master of the Supreme Court; and
- (e) three barristers or solicitors who shall be appointed by the Benchers of the Law Society of Upper Canada in convocation.

(2) The Chief Justice of Ontario is the chairman of the Rules Committee, but, in his absence or at his request, the Chief Justice of the High Court shall preside. ^{Chairman}

(3) The Registrar of the Supreme Court is *ex officio* the secretary of the Rules Committee. ^{Secretary}

(4) Each of the members of the Rules Committee appointed under clause *a*, *b* or *e* of subsection 1 shall hold office for a period of three years and is eligible for a reappointment. ^{Tenure of office}

(5) In case of the resignation, death or inability to act of any member appointed under clause *a*, *b* or *e* of subsection 1, the Chief Justice of Ontario, Attorney General or Benchers of the Law Society of Upper Canada, as the case may be, may appoint another member similarly qualified to hold office for the unexpired portion of the term of the member who has resigned or died or is unable to act. ^{Vacancy in office}

(6) A majority of the members of the Rules Committee constitutes a quorum. ^{Quorum}

(7) The Rules Committee shall hold an annual meeting on the first Monday following Christmas Day that is not a holiday at the City of Toronto or at such other time and place as the chairman directs. ^{Annual meeting}

(8) The chairman may at any time and upon the written request of any three members shall direct the secretary to call a meeting of the Rules Committee at such time and place as he determines. ^{Other meetings}

(9) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may at any time amend or repeal any of the rules and may make any further or additional rules for carrying this Act into effect, and in particular for, ^{Power to make rules}

- (a) regulating the sittings of the courts;

- (b) regulating the pleading, practice and procedure in the Supreme Court and in the county and surrogate courts;
- (c) allowing service out of Ontario;
- (d) prescribing and regulating the proceedings under any statute that confers jurisdiction upon the court or a judge;
- (e) fixing the vacations;
- (f) empowering the Master of the Supreme Court, or any officer sitting for him, or the local judges, or the local masters in respect of actions brought in their counties, to do any such thing, and to transact any such business, and to exercise any such authority and jurisdiction in respect of the same as are or may be done, transacted or exercised by a judge of the Supreme Court in court upon motions for judgment in undefended actions, for the appointment of receivers by way of equitable execution and for *ex parte* injunctions and upon motions in chambers or as are specified in the rules except in respect to matters relating to,
 - (i) the liberty of the subject,
 - (ii) appeals and applications in the nature of appeals,
 - (iii) proceedings under *The Mental Incompetency Act*,
 - (iv) applications for advice under *The Trustee Act*,
 - (v) matters affecting the custody of children,
 - (vi) proceedings enabling infants to make binding settlements of their real and personal property on marriage;
- (g) regulating generally any matters relating to the practice and procedure of the courts or to the duties of the officers thereof, or to the costs of proceedings therein, and every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect this Act and all other Acts respecting the courts,
- (h) regulating all fees payable to the Crown in respect of proceedings in any court.

R.S.O. 1960,
cc. 237, 408

Power to
modify
statutory
provisions
as to
procedure

(10) Where provisions in respect of practice or procedure are contained in any statute, rules may be made modifying such provisions to any extent that is deemed necessary for adapting them to the general practice and usage of the court, unless that power is expressly excluded.

(11) Any provisions relating to the payment, transfer or deposit into, or in, or out of any court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure. R.S.O. 1950, c. 190, s. 109.

Provisions as to payment into or out of court of money, etc.

COUNCIL OF JUDGES

112.—(1) A council of the judges of the Supreme Court, of which due notice shall be given to all of them, shall assemble at least once in every year on such day as is fixed by the Lieutenant Governor in Council for the purpose of considering the operation of this Act and of the rules and the working of the offices and the arrangements relative to the duties of the officers of the court, and of enquiring and examining into any defects that appear to exist in the system of procedure or the administration of justice in the Supreme Court or in any other court or by any other authority.

Council of judges

(2) The council shall report to the Lieutenant Governor what amendments or alterations, if any, it would be expedient to make in this Act or otherwise relating to the administration of justice, and what other provision, if any, it would be expedient to make for the better administration of justice.

Council to report to Lieutenant Governor

(3) An extraordinary council for the purposes mentioned in subsection 1 may also be convened at any time by the Lieutenant Governor in Council. R.S.O. 1950, c. 190, s. 110.

Extraordinary councils

DELEGATION OF POWERS OF JUDGES

113.—(1) Where by this or any other Act any power or authority is conferred upon the judges of the Supreme Court or upon the judges of the High Court as a body, they may respectively delegate such power or authority to a committee of themselves, and when it is exercised by the committee, the acts done by the committee have the same effect as if they had been done by the body by which the committee was appointed.

Delegation of powers of judges

(2) The presence of a majority of the members of the committee is necessary to constitute a quorum for the transaction of business.

Quorum

(3) Subsection 1 does not apply to a council of the judges provided for by section 112. R.S.O. 1950, c. 190, s. 111.

Application of subs. 1

QUORUM OF MEETINGS OF JUDGES

114. Where by this Act any power is conferred on the judges of the Supreme Court or of the High Court, the power may be exercised at a meeting duly called at which, in the

Quorum of meetings of judges

case of the Supreme Court, at least seven of the judges are present and, in the case of the High Court, at least five of the judges are present. R.S.O. 1950, c. 190, s. 112.

LOCAL JUDGES OF THE HIGH COURT

County
court
judges
are local
judges

115.—(1) Except in the County of York, every judge of a county court is a local judge of the High Court for the purposes of his jurisdiction in actions in the Supreme Court, and may be styled a local judge of the Supreme Court, and have, in all causes and actions in the Supreme Court, subject to the rules, power and authority to do and perform all such acts and transact all such business in respect of matters and causes in or before the High Court as he is by statute or the rules empowered to do and perform.

Powers of
county
judge
outside
county

(2) Where a county court judge is authorized to exercise jurisdiction in a county other than the county for which he is appointed, he has, while exercising jurisdiction in such county, the like power as a local judge of the High Court as though he were a judge of the county court of such county. R.S.O. 1950, c. 190, s. 113.

SHERIFFS, ETC.

Sheriffs,
jailers, etc.,
to obey
orders of
the court

116. Sheriffs, deputy sheriffs, jailers, constables and other peace officers, shall aid, assist and obey the court and the judges thereof in the exercise of the jurisdiction conferred by this Act, and otherwise, whenever by the rules or by the order of the court or of a judge required so to do. R.S.O. 1950, c. 190, s. 114.

PRISONS OF THE COURT

Jails to be
prisons of
the court

117. All jails in Ontario are prisons of the court. R.S.O. 1950, c. 190, s. 115.

OATHS AND AFFIDAVITS

Administra-
tion of oaths

118. Every officer of the Supreme Court has, for the purposes of any proceeding before him, power to administer oaths and to examine parties and witnesses. R.S.O. 1950, c. 190, s. 116.

WITNESS FEES

Fees of
certain
officers
producing
documents

119. A public official or other witness subpoenaed or called upon to produce before any court or other tribunal any public or other document is not entitled to more than ordinary witness fees, unless the court or other tribunal otherwise orders. R.S.O. 1950, c. 190, s. 117.

PROVISIONS APPLICABLE TO COUNTY COURTS

120. In addition to the provisions of this Act that are expressly made applicable to all courts or county courts or are otherwise by their terms so applicable, sections 24, 32, 35, 38, 52 to 54, 61 to 65, 76, 77, 79, 116 and 117, *mutatis mutandis* apply to the county courts. R.S.O. 1950, c. 190, s. 118.

Certain sections apply to county courts

COMMISSIONS FOR HOLDING SITTINGS, ETC.

121. This Act does not affect the power to issue commissions for the discharge of civil or criminal business on circuit or otherwise. R.S.O. 1950, c. 190, s. 119.

Power to issue commissions not to be affected

122. Any judge presiding at any sittings of the court or in chambers shall be deemed to constitute the court. R.S.O. 1950, c. 190, s. 120.

Judge to constitute court

ACCESS TO BOOKS

123.—(1) Every person shall have access to and is entitled to inspect the books of the Supreme Court and of the county courts, containing records or entries of the writs issued, judgments entered, and chattel mortgages and bills of sale registered, and no person desiring such access or inspection shall be required, as a condition of his right thereto, to furnish the names of the parties or the style of the causes or matters in respect of which the access or inspection is sought.

Books in which writs, judgments, etc., are entered to be open to inspection

(2) Every officer having the charge or custody of any such book shall upon request produce for inspection any writ of summons or copy thereof so issued, and any judgment roll, or any chattel mortgage or bill of sale so registered in his office or of which records or entries are by law required to be kept in such book.

Production of writs of summons, etc.

(3) The fee payable in respect of such inspection is 25 cents for a general search, and 10 cents for each writ of summons, judgment roll, chattel mortgage or bill of sale inspected, and 10 cents per folio is also payable for all extracts, whether made by the person making the search or by the officer.

Fee

(4) A person affected by any record in any court, whether it concerns the Queen or other person, is entitled, upon payment of the proper fee, to search and examine it and to have an exemplification or a certified copy thereof made and delivered to him by the proper officer. R.S.O. 1950, c. 190, s. 121.

Persons entitled to search and to copies of records of courts

PLEADINGS TO BE IN ENGLISH

124. Writs, pleadings and proceedings in all courts shall be in the English language only, but the proper or known names of writs or other process, or technical words, may be

Writs, pleadings, and proceedings to be in English

in the same language as has been commonly used. R.S.O. 1950, c. 190, s. 122.

DEMISE OF CROWN

Demise of
Crown not
to affect
pending
proceedings

125. No action or other proceeding in any court shall be discontinued or stayed by reason of the demise of the Crown, but it shall be proceeded with as if such demise had not happened. R.S.O. 1950, c. 190, s. 123.

SERVICE OF PROCESS ON THE LORD'S DAY

Service of
process on
the Lord's
Day

126. No person upon the Lord's Day shall serve or execute, or cause to be served or executed, any writ, process, warrant, order or judgment, except in cases of treason, felony, or breach of the peace, and the service of every such writ, process, warrant, order or judgment on the Lord's Day is void, and the person so serving or executing it is as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he had done the same without any writ, process, warrant, order or judgment. R.S.O. 1950, c. 190, s. 124.

ACTIONS ON BONDS

In actions on
bonds, etc.,
plaintiff
may assign
as many
breaches as
he pleases

127.—(1) In an action commenced or prosecuted in any court upon a bond for non-performance of any covenant or agreement in any indenture, deed or writing, the plaintiff may assign as many breaches as he thinks fit, and, upon trial of such action, not only such damages and costs as have heretofore been usually assessed shall be assessed, but also damages for such of the breaches so assigned as the plaintiff upon the trial of the issues proves, and the like judgment shall be entered as heretofore in such action.

Default
judgment

(2) If judgment is given for the plaintiff by confession or default, he may suggest as many breaches of the covenants and agreements as he thinks fit, and the damages that he has sustained thereby shall be assessed, and, if the defendant after such judgment entered and before any execution executed, pays into the court in which the action is brought to the use of the plaintiff such damages so to be assessed by reason of all or any of the breaches of such covenants or agreements, together with the costs of suit, a stay of execution on the judgment shall be entered upon record.

Judgment
to remain to
answer any
further
breach

(3) If by reason of any execution executed the plaintiff or his executors or administrators are fully paid or satisfied, all such damages so to be assessed, together with his or their costs of suit and all reasonable charges and expenses for executing the execution the body, land or goods of the defend-

ant shall be thereupon forthwith discharged from the execution, which shall likewise be entered upon record; but such judgment shall, nevertheless, remain, continue and be as a further security to answer to the plaintiff and his executors or administrators such damages as shall or may be sustained for further breach of any covenant or agreement in the same indenture, deed or writing contained upon which the plaintiff may apply to the court in which judgment is entered for leave to issue execution upon the judgment against the defendant, or his executors or administrators, suggesting other breaches of the covenants or agreements, and to call upon him or them to show cause why execution shall not be awarded upon the judgment, upon which the court shall make such order as is deemed just.

(4) Upon payment or satisfaction of such future damages, costs and charges, all further proceedings on the judgment shall again be stayed, and so *toties quoties*, and the defendant, his body, land or goods shall be discharged out of execution. R.S.O. 1950, c. 190, s. 125. Stay of proceedings

SET OFF

128. Where there are mutual debts between the plaintiff and defendant or, if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate and either party, one debt may be set against the other. R.S.O. 1950, c. 190, s. 126. Mutual debts

129.—(1) Mutual debts may be set against each other, notwithstanding that such debts are deemed in law to be of a different nature, except where either of the debts accrue by reason of a penalty contained in any bond or specialty. Idem

(2) Where either the debt for which the action is brought or the debt intended to be set against the same has accrued by reason of any such penalty, the debt intended to be set off shall be pleaded and it shall be shown by the pleading how much is truly and justly due on either side, and if the plaintiff recovers in any such action, judgment shall be entered for no more than appears to be truly and justly due to the plaintiff after one debt is set against the other. R.S.O. 1950, c. 190, s. 127. Judgment only for balance due after set off

130. If, upon a defence of set off, a larger sum is found to be due from the plaintiff to the defendant than is found to be due from the defendant to the plaintiff, the defendant is entitled to judgment for the balance remaining due to him. R.S.O. 1950, c. 190, s. 128. Defendant to be entitled to judgment for balance due after set off

PAYMENT POST DIEM

Plea of pay-
ment bar
in action of
debt, etc.

131. Where an action is brought upon a bill or where an action is brought upon a judgment, if the defendant has paid the money due upon the bill or judgment, the payment may be pleaded in the action, and where an action is brought upon a bond that has a condition or defeazance to make void the same upon payment of a lesser sum at a day or place certain, if the obligor, his heirs, executors or administrators have, before the action brought, paid to the obligee, his executors or administrators the principal and interest due by the condition or defeazance of the bond, though the payment was not made strictly according to the condition or defeazance, yet it may nevertheless be pleaded in the action, and is as effectual a bar thereof as if the money had been paid at the day and place according to the condition or defeazance and had been so pleaded. R.S.O. 1950, c. 190, s. 129.

Principal,
interest, and
costs
brought
into court
pending
action upon
bond

132. If, at any time pending an action upon a bond with a penalty, the defendant brings into court all the principal money and interest due on the bond and also all such costs as have been expended in any suit upon the bond, the money so brought in shall be deemed and taken to be in full satisfaction and discharge of the bond, and the court may give judgment to discharge the defendant of and from the bond accordingly. R.S.O. 1950, c. 190, s. 130.

ACTIONS OF ACCOUNT

Actions of
account by
and between
joint tenants
as bailiffs,
etc.

133. Actions of account may be brought and maintained against the executors or administrators of a guardian, bailiff or receiver, and also by one joint-tenant or tenant in common, his executors or administrators, against the other as bailiff for receiving more than comes to his just share or proportion, and against the executor or administrator of such joint-tenant or tenant in common. R.S.O. 1950, c. 190, s. 131.

PERPETUATING TESTIMONY

Actions to
perpetuate
testimony

134. Any person who would, under the circumstances alleged by him to exist, become entitled, upon the happening of any future event, to any office or to any estate or interest in any property, real or personal, the right or claim to which cannot by him be brought to trial before the happening of the event, is entitled to maintain an action in the Supreme Court to perpetuate any testimony that may be material for establishing his claim or right, and all laws, rules and regulations, not contrary to this section, in force or in use in suits to perpetuate testimony, or respecting depositions taken in

such actions in making such depositions, are in force and shall be used and applied in all actions instituted under this section and in respect of depositions taken in the action. R.S.O. 1950, c. 190, s. 132.

135. In all actions instituted under section 134 touching any office or any other matter or thing in which the Crown may have any estate or interest, it is lawful to make the Attorney General a party defendant thereto, and in all proceedings in which the depositions taken in any such action in which the Attorney General was so made a defendant may be offered in evidence, the depositions may be admissible notwithstanding any objection to the depositions upon the ground that the Crown was not a party to the action in which the depositions were taken. R.S.O. 1950, c. 190, s. 133.

Attorney General may be party defendant in actions in which the Crown may have any estate or interest

INDEMNITY TO PERSONS ACTING UNDER JUDGMENT

136. Any order or judgment of the court made in an action or upon an originating motion, special case or in any other way permitted by the rules or any statute effectually protects and indemnifies any person acting thereon in good faith. R.S.O. 1950, c. 190, s. 134.

Protection of persons acting on order or judgment

CONTEMPT

137.—(1) Where a person has been directed by a judgment or order to execute a deed or other instrument, or make a surrender or transfer, and has refused or neglected to execute the deed or instrument, or make the surrender or transfer, and has been committed to prison under process for such contempt, or, being confined in prison for any other cause, has been charged with or detained under process for such contempt, and remains in prison, the court may grant a vesting order or may order or appoint an officer of the court to execute the deed or other instrument, or to make the surrender or transfer for and in the name of such person.

Court may appoint person to execute instrument for person in contempt

(2) The execution of such deed or other instrument, or the surrender or transfer in his name made by such officer, has in all respects the same force and validity as if it had been executed or made by the person himself.

Effect of instrument

(3) Thereupon the person in contempt shall be considered as having cleared his contempt, except as regards the payment of the costs of the contempt, and is entitled to an order that he be discharged from custody, and the court shall make such order as is deemed just touching the payment of the costs of or concerning the deed or other instrument, surrender or transfer. R.S.O. 1950, c. 190, s. 135.

Discharge of person in contempt

Power of
sequestrator
in cases of
contempt

138.—(1) Where a person is committed for a contempt in not delivering to any person, or depositing in court or elsewhere, as by an order may be directed, books, papers, or any other articles or things, any sequestrator appointed under any commission of sequestration has the same power to seize and take the books, papers, or other articles or things, being in the custody or power of the person against whom the sequestration issues, as he would have over his own property, and thereupon the books, papers, or other articles or things so seized and taken shall be dealt with as the court deems proper.

Power of
court to
discharge

(2) After such seizure the court may, upon the application of the prisoner or of any other person in the cause or matter, or upon any report, make such order for the discharge of the prisoner upon such terms as to costs and otherwise as the court deems proper. R.S.O. 1950, c. 190, s. 136.

Court may
compulsorily
discharge
prisoners
confined for
contempt

139. Where a person committed for a contempt is entitled to his discharge upon applying to the court but omits to make the application, the court may compulsorily discharge the person from custody and direct payment of the costs of the contempt out of any funds belonging to him over which the court has power, or may order payment of the costs by the person. R.S.O. 1950, c. 190, s. 137.

CHARGING ORDERS ON STOCKS, ETC.

Orders
charging
stocks, etc.

140.—(1) If a person against whom a judgment has been entered in any of Her Majesty's courts in Ontario has any government stock, funds or annuities, or any stock or shares of or in a public company in Ontario, whether incorporated or not, standing in his name in his own right, or in the name of any person in trust for him, a judge of the Supreme Court, on the application of any judgment creditor, may order that the stock, funds, annuities, or shares or such of them or such part thereof as he thinks fit shall stand charged with the payment of the amount for which judgment has been so recovered, and interest thereon, and the order entitles the judgment creditor to all such remedies as he would have been entitled to if the charge had been made in his favour by the judgment debtor; but no proceedings shall be taken to have the benefit of the charge until after the expiration of six months from the date of the order.

Order to be
made in the
first instance
ex parte

(2) Every such order shall be made in the first instance *ex parte* and without any notice to the judgment debtor and is an order to show cause only, and the order, if any government stock, funds or annuities standing in the name of the judgment debtor in his own right or in the name of any person in trust for him are to be affected, restrains any transfer

thereof being made in the meantime and until the order has been made absolute or discharged; and if any stock or shares of or in any public company standing in the name of the judgment debtor in his own right or in the name of any person in trust for him are to be affected by the order, in like manner restrains such public company from permitting a transfer thereof.

(3) If, after notice of such order to the person to be restrained thereby, or, in the case of a corporation, to any authorized agent of the corporation, and before the order is discharged or made absolute, the corporation or person permits any such transfer to be made, the corporation or person so permitting the transfer is liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as is sufficient to satisfy his judgment, and no disposition of the judgment debtor in the meantime is valid or effectual as against the judgment creditor.

Liability of
persons
disregarding
order

(4) Unless the judgment debtor, within a time to be mentioned in such order, shows to a judge sufficient cause to the contrary, the order shall, after proof of notice thereof to the judgment debtor, his solicitor or agent, be made absolute.

When order
absolute

(5) A judge, upon the application of the judgment debtor or any person interested, may discharge or vary such order.

Varying or
discharging
orders

(6) This section extends to the interest of a judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent as well in any such stock, funds, annuities or shares, as also in the dividends, interest or annual produce of any such stock, funds, annuities or shares.

Property of
judgment
debtors
defined and
extended

(7) Where such a judgment debtor has an estate, right, title or interest, vested or contingent, in possession, remainder, or reversion in or to stock, funds, annuities or shares standing in the name of The Accountant of the Supreme Court or in or to the dividends, interest or annual produce thereof, the judge may make any order as to the stock, funds, annuities or shares, or the interest, dividends or annual produce thereof, in the same way as if the same had been standing in the name of a trustee of the judgment debtor.

Order affect-
ing funds
in court

(8) No such order as to any stock, funds, annuities or shares standing in the name of the Accountant, or as to the interest, dividends or annual produce thereof, prevents any incorporated bank or any public company from permitting a transfer of the stock, funds, annuities or shares, or payment of the interest, dividends or annual produce thereof, in such manner as the Supreme Court directs, or has any greater effect than if the judgment debtor had charged the stock,

Effect of
order

funds, annuities or shares, or the interest, dividends or annual produce thereof, in favour of the judgment creditor with the amount of the sum mentioned in the order. R.S.O. 1950, c. 190, s. 138.

PENAL ACTIONS

Reply in
penal
actions

141.—(1) In a penal action brought in good faith in which the defendant sets up a prior judgment, the plaintiff may reply in avoidance of the prior judgment that the prior judgment was had by covin or collusion, and no release by any person before or after action for a penalty is a ground for staying the action.

Exception

(2) No plaintiff in such an action shall be permitted to set up by way of reply, or otherwise, a charge of covin or collusion, where the merits of the matter in question in the action or a like charge of covin or collusion have been once tried and found either for or against the plaintiff. R.S.O. 1950, c. 190, s. 139.

Informer
must be
sui juris

142. No person shall sue as a common informer in a penal action unless he is *sui juris*. R.S.O. 1950, c. 190, s. 140.

Compound-
ing penal
action

143. No penal action brought by a common informer shall be compounded without the leave of the court. R.S.O. 1950, c. 190, s. 141.

QUO WARRANTO PROCEEDINGS

*Que
warranto*
writ
superseded,
in certain
cases

144.—(1) Except in the cases mentioned in section 145, all proceedings against any person who unlawfully claims or usurps, or is alleged unlawfully to claim or to usurp any office, franchise or liberty, or who has forfeited or is alleged to have forfeited any franchise by reason of non-user or mis-user thereof, that were formerly instituted or taken by writ of *quo warranto*, or by information in the nature of a writ of *quo warranto*, shall be instituted and taken, where the proceeding is by the Attorney General *ex officio*, by notice of motion calling on the person against whom the proceeding is taken to show cause why he unlawfully exercises or usurps such office, franchise or liberty.

Where
relator
named,
proceed-
ing, how
framed

(2) Where the proceeding is at the instance of a relator, it shall be taken in the name of Her Majesty on the relation of such person, and such person shall before serving the notice of motion give security for the due and effectual prosecution thereof in like manner as nearly as may be and in the like amount as is, according to the practice of the Supreme Court, required to be given on an application to quash a conviction

or order made by a justice of the peace, or in such manner and amount as the court directs.

(3) The court may direct an issue for the trial of the matters in question on any such application, and may grant an injunction or a mandatory order in aid of the proceedings, or for the purpose of enforcing the judgment or order that is pronounced thereon. Issue may be directed or injunction, etc., granted

(4) The practice and procedure, including the right of appeal, shall be, in all other respects, in accordance with the ordinary practice and procedure of the Supreme Court. Practice and appeals
R.S.O. 1950, c. 190, s. 142.

145.—(1) Where it is intended to call in question the right of any person claiming to be a municipal officer, or an officer of a school corporation, to the office that he claims to hold, exercise or occupy as such officer, or the right of a member of any school board or school corporation to have, hold or enjoy any office, either as a member of such board or corporation or otherwise under the school laws of Ontario, and subsection 2 does not apply to the trial and determination of such question, the matter shall be tried and determined by the judge of the county court of the county in which the duties of the office are to be performed, in a summary manner, and the proceedings shall be the same, as nearly as may be, as those provided for trying and determining a complaint respecting the validity or mode of conducting the elections of school trustees in an urban municipality, except that such judge has the same power to award costs to either party to the proceedings as he would have if the same were a proceeding in the county court. Municipal and school officers

(2) Nothing in subsection 1 applies to or affects the proceedings in cases for which special provision is made by the municipal or school laws of Ontario, but in all such cases the proceedings shall be instituted and taken in the manner provided by those Acts, and not otherwise. R.S.O. 1950, c. 190, s. 143. Where other special statutory provision, subs. 1 not to apply

CERTAIN PRACTICE AND PROCEDURE NOT AFFECTED

146. Nothing in this Act affects the practice or procedure in criminal matters or matters connected with Dominion controverted elections. R.S.O. 1950, c. 190, s. 144. Criminal matters and Dominion controverted elections not affected

CHAPTER 198

The Junior Farmer Establishment Act

1.—(1) The Ontario Junior Farmer Establishment Loan Corporation, in this Act called “the Corporation”, that has as its object the making of loans to assist young qualified farmers in the establishment, development and operation of their farms and that was constituted by *The Junior Farmer Establishment Act, 1952*, c. 45 ^{Corporation continued} 1952, c. 45 is continued.

(2) The Corporation shall continue to be composed of three members who shall hold office as members during the pleasure of the Lieutenant Governor in Council and who shall be such officers in the public service of Ontario as the Lieutenant Governor in Council from time to time appoints. ^{Membership}

(3) The three members for the time being of the Corporation shall form and be its board of directors and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board. ^{Board of directors}

(4) Subject to the regulations, the affairs of the Corporation shall be under the management and control of the board of directors and, in the absence of the chairman or if at any time that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. 1952, c. 45, s. 1 (1-4). ^{Management}

(5) Two directors constitute a quorum at meetings of the board of directors. 1957, c. 56, s. 1. ^{Quorum}

2.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation deems requisite for its purposes in any one or more, or partly in one and partly in another, of the following ways: ^{Borrowing powers}

1. By the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation determines.

2. By temporary loan or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the Corporation determines.

Purposes
of
Corporation

(2) The purposes of the Corporation shall, without limiting the generality thereof, include,

- (a) the carrying out of the object of the Corporation mentioned in section 1;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances; and
- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

Sale, etc.,
of Cor-
poration's
securities

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Authoriza-
tion

(4) A recital or declaration in a resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized is conclusive evidence to that effect.

Sealing,
signing, etc.

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer of the Corporation, and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the secretary or other officer of the Corporation.

Mechanical
reproduction
of seal and
signature
authorized

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation

notwithstanding that any person whose signature is so reproduced has ceased to hold office. 1957, c. 56, s. 2, *part*.

3. A debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation determines at the time of the issue thereof. 1957, c. 56, s. 2, *part*. Securities of Corporation may be made redeemable in advance

4. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board requires. 1952, c. 45, s. 6. Lost debentures

5.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act. Guarantee of payment by Province

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. Form of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province and is not open to question upon any ground whatsoever. Validity of guaranty

(4) A debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. 1952, c. 45, s. 7. Guaranteed debentures, etc., to be indefeasible

6. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. 1952, c. 45, s. 8. Trustees, etc., investments in debentures

7. The books and accounts of the Corporation shall be audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates, and such auditor shall make an annual report of the audit to the Treasurer of Ontario, and the Treasurer shall table the report in the Assembly if it is in session or, if it is not, then at the next ensuing session. 1952, c. 45, s. 9. Audit

8. The Corporation shall make an annual report in writing to the Treasurer of Ontario showing in detail the number and amount of loans made by it during the last preceding fiscal Annual report

year, and containing such other particulars as the Treasurer requires, and the Treasurer shall table the report in the Assembly if it is in session or, if it is not, then at the next ensuing session. 1952, c. 45, s. 10.

Committees

9. The Corporation, with the approval of the Lieutenant Governor in Council, may appoint committees, each of which shall be composed of two or more persons, one of whom is or has been a practical farmer, to consider and report to the Corporation upon applications and upon problems that may arise in connection with loans already made. 1952, c. 45, s. 11.

**Purposes
of loans**

10. Out of the moneys at its disposal from time to time, the Corporation may make loans for the following purposes and no other:

1. The acquisition of land for agricultural purposes.
2. The erection and improvement of farm houses and farm buildings.
3. To pay off charges existing against land at the time of acquisition by the borrower under a will or by descent.
4. To pay off encumbrances.
5. To consolidate outstanding liabilities incurred for productive agricultural purposes.
6. For the purpose of providing drainage.
7. To purchase live stock.
8. For such purposes relating to the establishment, development and operation of the applicant's farm as the Corporation approves. 1952, c. 45, s. 12.

**Qualifica-
tions of
applicants
for loans**

11. An applicant for a loan under this Act may be required to appear in person before the board of directors of the Corporation or a committee and shall submit evidence to the satisfaction of the board or committee,

- (a) that he is of the full age of twenty-one years and not more than thirty-five years of age;
- (b) that he has been resident in Ontario for at least three years immediately preceding his application;
- (c) that he has had a minimum of three years experience in farming and has displayed the ability and capacity necessary to operate a farm;
- (d) that he is industrious and of good character; and

- (e) that he is actually farming, or intends to farm, on a full-time basis on the land upon the security of which the loan is applied for. 1952, c. 45, s. 13.

12.—(1) Before making a loan under this Act, the Corporation shall secure a report from a competent valuator as to the value of the security offered by the applicant. Valuator's report

(2) The land and buildings shall be valued on the basis of their value for agricultural purposes. 1952, c. 45, s. 14 (1, 2). Mode of valuing

(3) The buildings upon the land shall be insured to their full insurable value or for such lesser amount as is acceptable to the Corporation. 1952, c. 45, s. 14 (3); 1957, c. 56, s. 3. Insurance

13. Where the Corporation is satisfied that the conditions of this Act and the regulations have been complied with, the Corporation may make a loan to the applicant to the extent of 65 per cent of the value of the security as shown by the valuator's report. 1952, c. 45, s. 15; 1957, c. 56, s. 4. Extent of loan

14. No loan shall exceed \$15,000, and every loan shall be secured by a first mortgage upon the lands farmed or to be farmed by the borrower or by the spouse of the borrower or by both of them. 1952, c. 45, s. 16; 1956, c. 33, s. 2. Limitation as to loan and security therefor

15. At the time of or subsequent to the making of a loan, the Corporation may accept as collateral security therefor a life insurance policy or an assignment thereof, a chattel mortgage, or any other security that the Corporation deems proper. 1952, c. 45, s. 17. Collateral security

16.—(1) Except as hereinafter provided, a loan made under this Act is repayable in annual instalments of principal and interest sufficient to discharge the debt at the end of such period as is agreed upon, but no loan shall be made for more than twenty-five years. Loan, how repayable

(2) The first three annual instalments of principal and interest may be graduated so that the first instalment is less than the second, the second less than the third and the third less than the subsequent instalments, which shall be equal. Graduated annual instalments

(3) Payments on account of the loan, in addition to those provided for in the mortgage or agreement, may be made at any time. 1952, c. 45, s. 18 (1-3). Payments may be accelerated

(4) The Corporation may accept a release of the equity of redemption existing by virtue of a mortgage to it and may sell any property that it has thus acquired to any person at such price and upon such terms as it deems proper. Sale of property acquired by release of equity of redemption

Consolidation of indebtedness

(5) The Corporation may grant such extension of time for the payment of principal and interest to any borrower and to any purchaser under an agreement for sale as the Corporation deems advisable and may, at any time at its discretion, consolidate the total indebtedness owing by any mortgagor or purchaser to the Corporation, inclusive of accrued interest and moneys paid for taxes, insurance, fees and disbursements to the date of consolidation, and alter the provisions of the mortgage and the agreement for sale so that the consolidated indebtedness with interest may be repayable in annual instalments for the balance of the term of the mortgage and agreement for sale or for such longer term, but not more than twenty years from the date of the mortgage or agreement for sale, as the Corporation deems proper.

Increase in loans

(6) Where a loan has been made under this Act and the borrower applies for an increase in the loan upon the same security, the Corporation may, if it is satisfied that the conditions of this Act and the regulations have been complied with, make a new loan to the applicant to the extent of 65 per cent of the value of the security as shown by the valuator's report. 1957, c. 56, s. 5.

Mortgages, how made
R.S.O. 1960, c. 374

17. Every mortgage made under this Act shall be made in accordance with *The Short Forms of Mortgages Act*, and may contain such further covenants, provisoes and conditions as the Corporation deems proper, and the Corporation has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act as a mortgagee has under the laws of Ontario. 1952, c. 45, s. 19.

Sale of mortgaged land

18. It shall be a term of a mortgage taken as security for a loan under this Act that upon the sale of the land mortgaged, the loan shall, at the option of the Corporation, immediately become due and payable. 1952, c. 45, s. 20.

Preparation of notices, mortgages, etc.

19. All notices, mortgages, discharges or other documents under this Act shall be prepared by the Corporation or by a person designated by the Corporation. 1952, c. 45, s. 21.

Where money misapplied

20. If at any time in the opinion of the board of directors of the Corporation any money advanced under this Act has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, or if the security depreciates in value, the Corporation may refuse to make any further advance and call in the whole amount then advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower shall at once repay the same with interest at the rate set forth in the mortgage, and in default of payment

the Corporation has the like remedies for recovery of the same as if the time for repayment thereof had fully arrived. 1952, c. 45, s. 22.

21. The Corporation from time to time shall secure reports as to the condition of any securities taken by it for loans under this Act and as to the progress and prospects of the borrowers, and for this purpose any governmental agency may co-operate with the Corporation by rendering assistance of an educational or other nature that appears calculated to facilitate the success of the borrower. 1952, c. 45, s. 23.

Corporation to secure reports as to conditions of securities

22.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

Sale of Corporation's securities to Province and provincial advances to Corporation authorized

(a) to purchase any debentures, bills or notes of the Corporation; and

(b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council deems expedient.

(2) The moneys required for the purposes of subsection 1 shall be paid out of the Consolidated Revenue Fund. 1957, c. 56, s. 6.

Idem

23. The Lieutenant Governor in Council may make regulations governing,

Regulations

(a) the management, control and administration of the affairs of the Corporation;

(b) the manner in which applications for loans are to be made and the form thereof;

(c) the fees and expenses payable by applicants and borrowers under this Act;

(d) the terms and conditions of loans;

(e) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 45, s. 24; 1957, c. 56, s. 7.

24. This Act shall be administered by the member of the Executive Council to whom it is assigned by the Lieutenant Governor in Council. 1952, c. 45, s. 25.

Administration of Act

25. The cost of administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1952, c. 45, s. 26; 1956, c. 33, s. 3.

Cost of administration

CHAPTER 199

The Jurors Act

1. In this Act,

Interpre-
tation

- (a) "county" includes a district;
- (b) "county court" includes a district court;
- (c) "county selectors" includes district selectors;
- (d) "local municipality" includes The Municipality of Metropolitan Toronto, but does not include an area municipality as defined by *The Municipality of Metropolitan Toronto Act*; R.S.O. 1960,
c. 260
- (e) "sheriff" includes a coroner, an elisor and every other officer to whom the return of jury process belongs.
R.S.O. 1950, c. 191, s. 1; 1955, c. 37, s. 1.

QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF
JURORS

2.—(1) Subject to section 44, and unless exempted or disqualified, every person twenty-one or more years of age, being a British subject by birth or naturalization and in the possession of his or her natural faculties, and not infirm or decrepit, who or whose wife or husband is assessed upon the last revised assessment roll as owner or tenant in respect of real property of the value of not less than \$600 in cities and \$400 in towns, villages and townships is qualified and liable to serve as a juror on grand and petit juries in the Supreme Court and in all courts of civil or criminal jurisdiction in the county in which he or she resides. R.S.O. 1950, c. 191, s. 2 (1); 1951, c. 41, s. 1. Who
qualified
and liable
to serve

(2) Where property is assessed as the property of two or more persons jointly, they shall be treated as if severally assessed for equal proportions of the property. R.S.O. 1950, c. 191, s. 2 (2). Joint
proprietors

3.—(1) The following persons are exempt from being returned and from serving as grand or petit jurors, and their names shall not be entered on the rolls prepared and reported by the selectors of jurors: Who
exempted
from
serving

1. Every person seventy or more years of age.
2. Every member of the Privy Council of Canada or the Executive Council of Ontario.
3. Every member of the Senate, the House of Commons of Canada or the Assembly.
4. The secretaries of the Governor General or the Lieutenant Governor.
5. Every judge.
6. Every magistrate.
7. Every sheriff, coroner, jailer and keeper of a house of correction or lock-up.
8. Every sheriff's officer and constable.
9. Every police officer and constable.
10. Every minister, priest or ecclesiastic under any form or profession of religious faith or worship.
11. Every woman who is a vowed member of a religious order and who lives in a convent or other religious community.
12. Every barrister and every solicitor of the Supreme Court actually practising, and every student-at-law.
13. Every officer of any court of justice.
14. Every physician, surgeon, dental surgeon, pharmaceutical chemist and veterinary surgeon actually practising.
15. Every registered nurse.
16. Every member of Her Majesty's navy, army or air force on full pay.
17. Every pilot and seaman engaged in the pursuit of his calling.
18. Every head of a municipal council.
19. Every editor, reporter and printer of any public newspaper or journal.
20. Every person employed in the actual working of a railway, street railway or public commission carrying on the business of developing, transmitting or distributing electrical power or energy.
21. Every telegraph and telephone operator.

22. Every fire fighter belonging to a fire department or company, who has procured the certificate authorized by section 1 of *The Fire Fighters' Exemption Act*, during the period of his enrolment and continuance in actual duty as such fire fighter; and every fire fighter who is entitled to and who has received the certificate authorized by section 4 of that Act; but no fire fighter is exempt from serving as a juror unless the captain or other officer of the fire department or company, at least five days before the time appointed for the selection of jurors, notifies to the clerk of the municipality the names of the fire fighters belonging to his department or company, and residing in the municipality, who are exempt and claims exemption for them. R.S.O. 1960,
c. 146

23. The wife or husband of every person mentioned in paragraphs 5, 6, 7, 8, 9, 12 or 13. R.S.O. 1950, c. 191, s. 3 (1); 1951, c. 41, s. 2.

(2) Every person who is under subpoena or is likely to be called as a witness in a civil or criminal proceeding is exempt from being returned and from serving as a grand or petit juror at any sittings of a court at which such proceeding might be tried, and his name shall not be entered on the rolls prepared and reported by the selectors of jurors for any such sittings, and if entered, shall be deleted therefrom. R.S.O. 1950, c. 191, s. 3 (2). Exemption
where
person under
subpoena

(3) Every grand juror and every petit juror who has received fees for attending a sittings of a court is exempt from being returned and from serving as a grand or petit juror for the period of three years next following the commencement of such sittings, and if his name is entered on the rolls prepared and reported by the selectors of jurors for any sittings of a court to be held within such period of three years, his name shall be deleted therefrom. 1954, c. 40, s. 1. Exemption
for three
years after
service

4.—(1) A woman who is served with a summons and does not desire to serve as a juror shall, within three days after the date of receipt of the summons by her, notify the sheriff in writing (Form 4, Schedule D) that she claims exemption from service as a juror for a period of one year from the date of the notice, and, upon such notice being given to the sheriff, the woman is exempt from service as a juror for the period of one year. Notice by
women
desiring
exemption

(2) When sending a summons to a woman, the sheriff shall enclose therewith a copy of this section and a copy of the notice (Form 4, Schedule D). 1951, c. 41, s. 3. Enclosures
with
summons

Service at
division
courts not
to exempt

5. Service at a division court does not exempt a juror from serving at any other court. R.S.O. 1950, c. 191, s. 4.

Convicted
persons
disqualified

6. No person convicted of treason, felony, perjury or subornation of perjury, unless he has obtained a free pardon, is qualified to serve as a grand or petit juror. R.S.O. 1950, c. 191, s. 5.

COUNTY SELECTIONS

County
selectors

7.—(1) The judge of the county court, every junior judge thereof, the mayor of any city situate in the county, the warden, the treasurer of the county, the treasurer of any such city, and the sheriff or in his absence the deputy sheriff, any three of whom is a quorum, are *ex officio* selectors of jurors from the jurors' rolls in their respective counties, and shall be known as county selectors.

Chairman

(2) The judge of the county court, and in his absence a junior judge, is the chairman, and in the absence of both, the county selectors may appoint a chairman *pro tempore*. R.S.O. 1950, c. 191, s. 6 (1, 2).

Casting vote

(3) In case of an equality of votes, the chairman of the meeting has a double or casting vote. R.S.O. 1950, c. 191, s. 6 (4).

York county
selectors

8.—(1) Notwithstanding section 7, in the county of York the judge of the county court, the senior of the junior judges thereof, the chairman of the council of The Municipality of Metropolitan Toronto, the warden, the treasurer of the county, the treasurer of The Municipality of Metropolitan Toronto, and the sheriff, any three of whom constitute a quorum, are *ex officio* the selectors of jurors from the jurors' rolls in the county and shall be known as the county selectors.

Selectors
for Metro-
politan
Toronto

(2) The judge of the county court or any junior judge designated by the judge except the senior junior judge, the chairman of the council of The Municipality of Metropolitan Toronto or a member of the Metropolitan Council designated by the chairman, the sheriff or a deputy sheriff designated by the sheriff, and the treasurer of The Municipality of Metropolitan Toronto or the deputy treasurer of The Municipality of Metropolitan Toronto if designated by the treasurer, shall attend when the selection is being made for The Municipality of Metropolitan Toronto.

Selectors
for York
county other
than Metro-
politan
Toronto

(3) The senior of the junior judges of the county court or any other junior judge designated by that judge, the warden or a member of the county council designated by the warden, the sheriff or a deputy sheriff designated by the sheriff, and the treasurer of the county or the deputy treasurer of the county if designated by the treasurer, shall attend when the

selection is being made from the local municipalities other than The Municipality of Metropolitan Toronto.

(4) The senior judge or the junior judge designated by him, as the case may be, is the chairman of the section of county selectors for The Municipality of Metropolitan Toronto, and if neither of such judges is present, the members of that section may appoint from among themselves a chairman *pro tempore*. Chairman of the selectors for Metropolitan Toronto

(5) The senior of the junior judges or the junior judge designated by him, as the case may be, is the chairman of the section of county selectors for the county other than The Municipality of Metropolitan Toronto, and if neither of such judges is present, the members of that section may appoint from among themselves a chairman *pro tempore*. Chairman of selectors for county other than Metropolitan Toronto

(6) In case of an equality of votes, the chairman of the meeting has a double or casting vote. 1955, c. 37, s. 3. Casting vote

9. Where the county treasurer is a practising barrister or solicitor, he is disqualified from acting as a county selector, and the clerk of the county council or, if he is a practising barrister or solicitor, the clerk of the county court is a county selector in the stead of the county treasurer. R.S.O. 1950, c. 191, s. 7. When county clerk or clerk of county court a selector

10. The clerk of the peace shall attend all meetings of the county selectors, and shall enter their proceedings and resolutions in a book kept for that purpose, but he shall have no voice in the selection of jurors, and shall not advise or express an opinion whether any name ought to be placed upon or omitted from the list of jurors. R.S.O. 1950, c. 191, s. 8. Clerk of peace to attend meetings of selectors

11. The county selectors shall assemble annually at the office of the clerk of the peace or at the court house on the 15th day of September. R.S.O. 1950, c. 191, s. 9. Annual meeting of selectors

12. The county selectors shall at such meeting by resolution first determine and declare the number of grand and petit jurors respectively that will be required as jury panels for service at the courts during the ensuing year, and shall fix the total number of grand and petit jurors for the Supreme Court and for the inferior courts which the local municipalities shall return at three times the number declared by the resolution to be required. R.S.O. 1950, c. 191, s. 10. Determining number of jurors for the year

13.—(1) The county selectors shall then by resolution determine the number of grand and petit jurors for the Supreme Court and for the inferior courts to be returned for each local municipality, and the number of persons on the voters' list of each municipality, marked as qualified to serve on juries, Determining number of jurors from each municipality

shall form an approximate basis for determining the number of jurors to be returned by each local municipality, and the clerk of the peace shall produce for the use of the county selectors the voters' lists delivered to him by the clerks of the local municipalities under *The Voters' Lists Act*, or certified copies of such lists. R.S.O. 1950, c. 191, s. 11.

R.S.O. 1960,
c. 420

Voters' list
for Metro-
politan
Toronto

(2) For the purposes of subsection 1, the voters' list for The Municipality of Metropolitan Toronto is the voters' list of each of the area municipalities in The Municipality of Metropolitan Toronto. 1955, c. 37, s. 4.

Determining
number
of petit
jurors

14.—(1) The county selectors shall also at such meeting by resolution determine the number of petit jurors to be drafted and returned to any sittings of the Supreme Court, the court of general sessions of the peace, and the county court for the current or ensuing year.

Copies of
resolution to
be trans-
mitted and
filed

(2) The clerk of the peace shall forthwith transmit to the office of the Registrar of the Supreme Court and to the clerk of the county court a certified copy of such resolution, and such copies shall be filed in such offices. R.S.O. 1950, c. 191, s. 12.

Power to
amend
resolutions

15. The county selectors may by resolution amend any resolution passed under sections 11 to 14 and either increase or decrease the number of jurors to be selected and returned by the local municipalities, the number to be selected by the county selectors, or the number of petit jurors to be drafted and returned to any sittings of the Supreme Court, the court of general sessions of the peace, or the county court, and in such case due notice thereof shall be given by the clerk of the peace to the persons entitled to notice of the original resolution. R.S.O. 1950, c. 191, s. 13.

Clerk of the
peace to
notify clerks
of local
municipalities

16. The clerk of the peace shall, within five days after the meeting of the county selectors, notify in writing the clerk of each local municipality of the number of grand and petit jurors respectively required to be returned from the municipality. R.S.O. 1950, c. 191, s. 14.

SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL

Local
selectors

17.—(1) Subject to subsection 2, the head of the council, the clerk, the assessment commissioner and the assessors of every local municipality, any two of whom are a quorum, are *ex officio* the local selectors of jurors for the municipality. R.S.O. 1950, c. 191, s. 15; 1955, c. 37, s. 5 (1).

(2) The local selectors for The Municipality of Metropolitan Toronto consist of the chairman of the Metropolitan Council or a member thereof designated by him, the clerk and deputy clerk of the Metropolitan Corporation, the assessment commissioner and deputy assessment commissioner or commissioners of the Metropolitan Corporation and such assessors thereof as are designated by the assessment commissioner, and any two of the local selectors constitute a quorum. 1955, c. 37, s. 5 (2).

Local
selectors
for Metro-
politan
Toronto

18.—(1) The local selectors shall meet annually on the 10th day of October at the place where the meetings of the municipal council are usually held or at such other place in the municipality as is appointed by the head of the council, or during his absence, or a vacancy in the office, by the clerk, for the purpose of selecting from the assessment roll the names of the persons qualified and liable to serve as jurors.

When and
where the
selection
to be
made

(2) The local selectors shall proceed from day to day until the selection is completed, and shall select such persons as in their opinion, or in the opinion of a majority of them, are, from the integrity of their characters, the soundness of their judgment and the extent of their information, the most discreet and competent for the performance of the duties of jurors.

Principles
by which
selectors are
to be
governed

(3) The clerk, or the assessment commissioner, or assessors, or such other officer or person who has the actual charge or custody of the assessment roll for the year and the proper voters' list shall bring them to such meeting.

Assessment
rolls to be
produced

(4) The local selectors, before entering upon the performance of their duties, shall severally make and subscribe the following oath:

Oath of
selectors

I,, do swear (*or affirm, as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a local selector of jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as jurors for the year 19.

Sworn, etc.

(Signed)

R.S.O. 1950, c. 191, s. 16, *amended*.

(5) For the purposes of this section, the assessment roll of The Municipality of Metropolitan Toronto is the assessment roll of each of the area municipalities in The Municipality of Metropolitan Toronto. 1955, c. 37, s. 6.

Assessment
rolls for
Metro-
politan
Toronto

Manner in which local selectors to make list from which to select jurors

19.—(1) The local selectors shall,

- (a) from the certified voters' list prepared for the municipality in the year; or
- (b) if the list has not been certified, then from the voters' list published by the clerk of the municipality in the year; or
- (c) if the list has not been published, then from the assessment roll of the municipality returned in the year; or
- (d) if the assessment roll has not been returned, then from the last revised assessment roll of the municipality,

write down twice as many of the names of the persons appearing by the assessment roll to be possessed of the requisite property qualification and otherwise qualified to serve as jurors, as have been required by the county selectors to be selected and returned from the municipality; and the proper assessment roll shall in all cases be referred to by the local selectors for the purpose of determining who are exempt or disqualified from acting as jurors, and for such other purposes as are necessary in the discharge of their duty. 1952, c. 46, s. 1.

Selection to be made in alphabetical order

(2) The local selectors shall from year to year in making the selection proceed in alphabetical order, and shall write down consecutively in like order the names of all those persons qualified to serve as jurors and not exempt by law, until twice the total number required to be returned from the municipality is obtained, and at each subsequent annual meeting the local selectors shall begin at the letter next to that at which they left off in the next preceding year, and so on until they have gone through all the remaining letters of the alphabet, when they shall begin again with the letter A.

Procedure when number qualified under one letter not exhausted

(3) Where the local selectors obtain the names of a sufficient number of qualified persons after they have entered upon, but before they have exhausted the entire number of those qualified under any one letter, they shall at the next annual selection commence at the beginning of such letter, but shall not select from the names of any persons that were written down and selected from and returned in the next preceding year.

Where number of names of duly qualified persons not sufficient

(4) Where, after discarding the names of those exempt or incapacitated, the number of qualified persons required by the local selectors to be selected from the municipality cannot be obtained, the local selectors shall place on the list the names only of such persons in the municipality as are qual-

ified, and the number of jurors required shall be selected from such list, and the clerk shall notify the county selectors of the facts, and they shall at their next and subsequent selections have regard thereto.

(5) The local selectors shall select at least two-thirds of the persons whose names they have so written down, being those who in their opinion are the best qualified to serve as jurors, and shall place a number opposite each name so selected. Local selectors to select two-thirds of names on list

(6) The inability of the local selectors, after discarding the names of those exempt or incapacitated, to find twice the number of persons having the proper qualification that have been required by the county selectors to be selected and returned, or to find the number required by the county selectors to be selected and returned does not invalidate or render irregular the selection by them of the jury list or panel, or render it liable to challenge. Jury panel not affected R.S.O. 1950, c. 191, s. 17 (2-6).

(7) Subsection 2 of section 13 and subsection 5 of section 18 apply *mutatis mutandis* to this section. Application of ss. 13 (2); 18 (5) 1955, c. 37, s. 7.

20. It is not necessary for the local selectors to refer to any name on the assessment roll that has not the letter J opposite it in the voters' list, unless they suspect that names are not properly marked. When selectors to question assessment roll R.S.O. 1950, c. 191, s. 18.

21. In case of an equality of votes as to any question, the head of the council, or, in the case of his absence or a vacancy in the office, the clerk, has a double or casting vote. Casting vote R.S.O. 1950, c. 191, s. 19.

22.—(1) The local selectors shall prepare as many ballot papers of uniform and convenient size as there are names selected, and the ballot papers shall be numbered to correspond with the numbers opposite to the names of the two-thirds selected; and they shall then proceed to select by ballot the number of jurors required by the county selectors. Jurors to be selected by ballot

(2) The manner of balloting is as follows: Manner of balloting

1. The local selectors shall place the ballot papers, correctly numbered, in a box or urn, and shall cause it to be shaken so as sufficiently to mix the ballot papers, and shall then openly draw from the box or urn indiscriminately one of the ballot papers, and declare openly the number on such ballot paper, whereupon the clerk, or one of the local selectors, shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the list.

2. The name and addition of the person who has been so selected shall then be written down, and the local selectors shall proceed in like manner until the necessary number has been completed. R.S.O. 1950, c. 191, s. 20.

List to be distributed into four divisions

23.—(1) When the local selectors have completed the selection, they shall, for the purpose of the report thereof, distribute the names of the persons so selected into four divisions, the first consisting of persons to serve as grand jurors in the Supreme Court, the second of persons to serve as grand jurors in the inferior courts, the third of persons to serve as petit jurors in the Supreme Court, and the fourth of persons to serve as petit jurors in the inferior courts, and shall make such distribution according to the best of their judgment with a view to the relative competency of the persons to discharge the duties required of them respectively.

Idem

(2) The distribution among the four divisions shall be made so that each division will contain the number of names required by the county selectors to be returned for such division. R.S.O. 1950, c. 191, s. 21.

Selectors to make out a duplicate report, etc.

24.—(1) The local selectors shall make out in duplicate under their hands and seals, or under the hands and seals of such of them as perform the duty, a report (Schedule A) of their selection, ballot and distribution in which they shall set forth in alphabetical order the names of the persons selected.

Declaration to be attached to the report

(2) There shall be attached to each duplicate a declaration, subscribed by them, stating, each for himself, that he has made the selection, ballot and distribution to the best of his judgment and information pursuant to this Act, and without fear, favour or affection, gain, reward or hope thereof, other than such fees as he is lawfully entitled to receive under this Act.

Reports to be deposited and kept on file

(3) One of such duplicates shall, on or before the 25th day of October, be deposited by the local selectors with the clerk of the peace and the other with the clerk of the municipality, and they shall be kept on file for the use and information of all who have lawful occasion to examine or make use of them.

In case of loss, a copy of the duplicate report to be filed

(4) In case of the loss or destruction of a duplicate report, the officer in whose office it was when lost or destroyed shall, as soon as reasonably may be, procure from the officer to whom the legal custody of the other duplicate report belongs, a certified copy thereof, and shall file it in his office, and it shall thenceforth be taken, received and acted upon in all respects as if it were the duplicate report lost or destroyed. R.S.O. 1950, c. 191, s. 22.

25. The clerk shall enter in a book to be kept for that purpose the dates of the meetings of the local selectors, the persons present thereat and taking part therein, and the letters of the alphabet from which the selections are from year to year made, and, when the names in any letter have not been exhausted in any year, the clerk shall enter in the book the names and additions of all persons whose names begin with the last-mentioned letter that were written down and selected from and returned during the then current year. R.S.O. 1950, c. 191, s. 23.

Record to be kept by clerk of municipality

PREPARATION OF JURORS' BOOKS

26. The clerk of the peace shall in each year procure a book called the jurors' book, and shall keep it as nearly as may be in the form of Schedule B, and according to the directions contained in the notes to the Schedule. R.S.O. 1950, c. 191, s. 24.

Clerk of the peace to prepare jurors' books

27. From the reports of the local selectors made to the clerk of the peace for such year, or from such of them as have been made on or before the 25th day of October, the clerk of the peace shall, between the 25th day of October and the 10th day of November in such year, transcribe into the jurors' book, in alphabetical order, the names and additions of all persons selected to serve as grand and petit jurors, as they are set forth and distributed in such reports. R.S.O. 1950, c. 191, s. 25.

Contents of jurors' book

28. The names shall be transcribed into the book in four rolls, the first to be called "Roll of Grand Jurors to serve in the Supreme Court", the second, "Roll of Grand Jurors to serve in the Inferior Courts of Criminal Jurisdiction", the third, "Roll of Petit Jurors to serve in the Supreme Court", and the fourth, "Roll of Petit Jurors to serve in the Inferior Courts of Criminal and Civil Jurisdiction". R.S.O. 1950, c. 191, s. 26.

Jurors' books to contain four rolls of jurors

29. The names and additions of all persons selected, balloted and reported to serve as jurors shall be transcribed in each of the rolls. R.S.O. 1950, c. 191, s. 27.

Names and addition of jurors

DIVISION OF JURORS' ROLLS

30. Each jurors' roll shall be divided into local municipalities, and the names in each municipality shall be arranged alphabetically, and all the names in each roll shall be numbered consecutively. R.S.O. 1950, c. 191, s. 28.

Division of jurors rolls according to municipalities

How the
rolls are to
be certified

31. A certificate of the clerk of the peace shall be attached to each roll certifying that he has carefully compared it with the reports made by the local selectors of jurors for the year, as such reports were on file in his office on the 25th day of October in such year, and that it contains a true and correct transcript of the names and additions of all persons so reported to serve as jurors. R.S.O. 1950, c. 191, s. 29.

Presenting
and certify-
ing jurors'
rolls

32.—(1) As soon as he has completed the jurors' book, but not later than the 12th day of November in each year, unless the judge of the county court, for such reasons as he deems sufficient, extends the time for preparing the jurors' book, the clerk of the peace shall appear before the judge in his chambers and deliver to the judge the jurors' book so prepared by him together with the jurors' books for so many of the preceding years as are required for proceeding with the preparation of the jurors' lists as hereinafter directed, and shall thereupon make oath before the judge,

(a) that he has carefully compared the jurors' rolls in the first-mentioned jurors' book with the reports made by the local selectors, as they were on file in his office on the 25th day of October next preceding, and that to the best of his knowledge and belief such jurors' rolls contain a true and correct transcript of the names and additions of all persons reported by the local selectors; and

(b) that the jurors' books secondly above-mentioned are those on file in his office for the years to which they purport respectively to relate, and that all entries therein were truly and faithfully made, without fraud or collusion of any kind, and according to the very truth.

Where clerk
of peace has
not been in
office during
preceding
years

(2) If the clerk of the peace has not been in office during all the time that the jurors' books have been on file, he shall make oath that all entries made during the time that he has been in office have been truly and faithfully made without fraud or collusion of any kind, and according to the very truth, and that he verily believes that all other entries prior to his appointment were truly and faithfully made. R.S.O. 1950, c. 191, s. 30.

Modification
of oath

33. On the first occasion of bringing the jurors' book before the judge, there being no jurors' book for any preceding year, the oath to be made by the clerk of the peace shall be modified accordingly. R.S.O. 1950, c. 191, s. 31.

34. If the clerk of the peace is unable to make the oath required by subsection 2 of section 32 as to the entries made in any of such jurors' books prior to the time of such book coming into his custody, or has reason to suspect that any original entry in such book has, after its original completion, been erased, mutilated or altered, he shall in lieu of that part of the oath make oath that, as to such entry, he is unable to speak, but that from circumstances that have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or has reason to suspect that an original entry has been erased, mutilated or altered. R.S.O. 1950, c. 191, s. 32.

If the clerk of the peace suspects previous errors or fraud, he is to state the same

35.—(1) Where the clerk of the peace has made an affidavit in the terms of section 34, the judge shall examine and inquire by the oath of such persons as are informed thereof, into the supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when and for what purpose they were made and shall report the same to the Attorney General, and shall cause the incorrect entries, erasures, mutilations or alterations to be rectified, and the books restored to their original state as nearly as may be according to the best information he has been able to obtain of or concerning the same.

Inquiry as to error or fraud

(2) For the purposes of subsection 1, the judge possesses all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 191, s. 33.

Powers of judge
R.S.O. 1960, c. 323

36. The judge shall thereupon certify under his hand and seal in each of such books, the receipt thereof and the oath upon which the same has been received, and such books shall be deposited with the clerk of the peace and are the jurors' rolls from which the selection of jurors shall be made as hereinafter provided. R.S.O. 1950, c. 191, s. 34.

Certifying jurors' books

37.—(1) The county selectors shall meet at the court house or in the judge's chambers on a day to be fixed by the chairman, not earlier than the 12th day of November and not later than the 15th day of December in each year, at 10 o'clock in the forenoon, to proceed with the selection of jurors from the jurors' rolls prepared under section 28, and shall proceed as far as practicable from day to day until the selection is completed.

Meeting of county selectors and selection of lists

(2) The county selectors shall so arrange and proceed that the selection of jurors by them and the preparation of the jury lists shall be completed and the lists duly certified and filed in the office of the clerk of the peace before the 31st day of December in the same year.

Selection to be completed before end of year

Oath of
selectors

(3) Before entering upon the performance of their duties, the county selectors shall severally take and subscribe the following oath:

I, . . . , do swear (*or affirm as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a county selector, and will select from the proper rolls the requisite number of the most fit and proper persons to serve as jurors for the year 19. . . .

Sworn, etc.

(Signed).

Idem

(4) An entry of such oaths shall forthwith be made in the minute book of the county selectors. R.S.O. 1950, c. 191, s. 35, *amended*.

Selection of
jurors from
jurors' rolls

38.—(1) The county selectors shall then proceed to select from the jurors' rolls the names of the requisite number of persons to serve as jurors for such year, being those persons who, in the opinion of the selectors or of a majority of them, are, from the integrity of their character, the soundness of their judgment, and the extent of their information the most discreet and competent for the performance of the duties of jurors, and in making the selection the county selectors may, if they think fit, select a proportion of the names for each jury list from each local municipality.

Clerk of
peace to
enter names
of jurors
selected

(2) The county selectors shall first select the grand jury list for the Supreme Court, and when they have decided upon the selection of any person, his name and addition shall be forthwith inserted by the clerk of the peace in the minute book.

Names
selected to
be inserted
in list

(3) The names of the persons so selected, alphabetically arranged, with their places of residence and additions, shall then be copied by the clerk of the peace into the jurors' book with the title "The Grand Jury List for the Supreme Court", and shall be numbered consecutively, and also with the number of each name on the roll of grand jurors for the Supreme Court.

Clerk of the
peace to
enter names
in the book

(4) The clerk of the peace shall thereupon mark each of such names on the last-mentioned roll as transferred to the jury list by a reference to the number belonging to it on that list.

List so made
to be the
grand jury
list for
S.C.O.

(5) The list of names so selected and transferred is the grand jury list for the Supreme Court for the year next after that in which it has been so prepared. R.S.O. 1950, c. 191, s. 36.

Grand jury
list for in-
ferior courts
to be made
in like
manner

39. After the grand jury list for the Supreme Court has been completed, the required number of names of persons to serve as grand jurors in the inferior courts shall, in like manner, be selected and transferred to a similar list in the same

book, with the title "The Grand Jury List for the Inferior Courts" for such next year, and the last-mentioned list is the grand jury list for the inferior courts for the year next after that in which it has been so prepared. R.S.O. 1950, c. 191, s. 37.

40. The required number of names shall in like manner be selected and transferred from the roll of jurors to serve as petit jurors in the Supreme Court to the petit jury list for the Supreme Court for such year, and lastly from the roll of jurors to serve as petit jurors in the inferior courts to the petit jury list for the inferior courts for such year. R.S.O. 1950, c. 191, s. 38.

Lists of petit jurors of Supreme Court and inferior courts

41. The number to be selected from the jurors' rolls for a jury list shall be the number of grand jurors that the county selectors have determined to be requisite for the year, and of petit jurors for the Supreme Court and inferior courts respectively the number theretofore determined by the county selectors to be requisite as the panels for the year, with one-fourth the number thereof added thereto. R.S.O. 1950, c. 191, s. 39.

Number to be selected for jury list

42. The county selectors may prepare any of the jury lists before the previous lists, or any of them, have been transferred to the jurors' book. R.S.O. 1950, c. 191, s. 40.

Selection may be made before transfer to jurors' books

43. As soon as the four jury lists have been so prepared, the chairman and the clerk of the peace shall certify under their hands in the jurors' book, immediately after each of such jury lists, that it was prepared from the proper roll, as the law directs, and the date of its preparation, and the jurors' book, with the jury lists so certified, shall then be filed in the office of the clerk of the peace. R.S.O. 1950, c. 191, s. 41.

The chairman and clerk of the peace to certify books

DISTRICT SELECTIONS

44.—(1) In a provisional judicial district where there are two judges of the district court, the judges and the sheriff, and where there is but one judge, the judge, the clerk of the district court and the sheriff, any two of whom are a quorum, are the district selectors of jurors.

District selectors

(2) Except as herein otherwise provided, the district selectors of jurors shall perform the like duties and possess the like powers as county selectors of jurors, and the sheriff and clerk of the peace of the district shall respectively perform the like duties and possess the like powers with respect to the selection, empanelling and summoning of jurors and otherwise as the sheriff and the clerk of the peace of a county.

To have powers and duties of county selectors

Local
selectors

(3) The provisions of this Act with regard to the selection and distribution of jurors by the local selectors of jurors apply to every local municipality in a provisional judicial district.

Number of
grand and
petit jurors
to be
returned

(4) After the district selectors at the meeting to be held as provided in section 11 have determined and declared the number of grand and petit jurors respectively that will be required as jury panels for service at the courts during the ensuing year, they shall by resolution fix the total number of grand and petit jurors for the Supreme Court, and for the inferior courts, that shall be returned by the local municipalities, and the total number that shall be selected by the district selectors from territory without municipal organization. R.S.O. 1950, c. 191, s. 42 (1-4).

Selection
by district
selectors

(5) The district selectors shall then proceed to select, from among the persons twenty-one or more years of age resident in territory without municipal organization, a list of persons to serve as grand and petit jurors respectively with those to be selected from the local municipalities. R.S.O. 1950, c. 191, s. 42 (5); 1951, c. 41, s. 4.

Non-
eligibility

(6) No person shall be selected to serve as a juror from territory without municipal organization who is exempted or disqualified under this Act.

Property
qualification

(7) No property qualification is required in the case of a person selected from territory without municipal organization.

Use of
voters' list,
etc.

(8) In making up any list of jurors from territory without municipal organization, the district selectors may have recourse to the last voters' list prepared and certified for such territory and to any assessment or collector's roll prepared for school purposes, and may proceed upon any information furnished by such list or roll or possessed or acquired by them in any other manner, but the persons selected shall be such as from the integrity of their character, the soundness of their judgment and the extent of their information are, in the opinion of the district selectors, the most discreet and competent for the performance of the duties of jurors. R.S.O. 1950, c. 191, s. 42 (6-8).

JURY PROCESS

Judges to
issue
precepts to
the sheriffs

45.—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court, and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may respectively issue precepts (Form 1, Schedule D) to the sheriff for the return of a proper number of grand jurors for such sittings, and of such number of petit jurors as county selectors have determined as the number to be drafted

and returned on such greater or lesser number as in their or his opinion is required. R.S.O. 1950, c. 191, s. 43 (1).

(2) The precepts for the return of grand jurors shall command the return, and the panel shall consist of thirteen grand jurors. R.S.O. 1950, c. 191, s. 43 (2). Number of grand jurors

(3) Where, after the issue of a precept for the return of grand jurors, the clerk of the peace informs a judge authorized under subsection 1 to issue the precept that there are no criminal prosecutions at the sittings for which the precept was issued, the judge may, Cancellation of precept for grand jury

(a) cancel the precept; or

(b) if summonses have been served on the persons drafted to serve on the grand jury, direct the sheriff to notify each person so summoned, in the manner prescribed by subsection 5 of section 66. 1955, c. 37, s. 8 (2).

(4) Where a grand jury has been discharged, a judge presiding at the sittings of the court for which such grand jury was summoned may, during the continuance of the sittings, upon the request of the Crown attorney or counsel appearing for the Attorney General, direct the sheriff to resummon the members of such grand jury to re-attend at the sittings at such time as he determines, and, where all of the grand jurors do not appear, section 69 applies. R.S.O. 1950, c. 191, s. 43 (3). Summoning members of grand jury

46.—(1) The judge presiding at a jury sittings of the Supreme Court and at a sittings of the court of general sessions of the peace shall instruct the grand jury that it may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public moneys, and every grand jury that makes such an inspection shall prepare a report or presentment indicating the conditions found to be existing in each of the institutions inspected, but where such an inspection has been conducted within six months prior to the date of the commencement of such sittings, no inspection shall be made without the specific consent of the judge. Inspection of institutions

(2) The time that may be devoted by a grand jury to the inspection of institutions is subject to the control and direction of the presiding judge. R.S.O. 1950, c. 191, s. 44. Amount of time to be spent in inspection

47.—(1) The Crown attorney may direct the sheriff to summon the petit jury for any of the sittings of the Supreme Court, county court, or court of general sessions of the peace on any day after the day upon which the court is scheduled to open at such hour as he determines where in the circumstances he deems it advisable to do so, and such direction shall be given in writing at least six days before the day upon which Postponement of summons to jurors

the sittings is to be commenced. R.S.O. 1950, c. 191, s. 45 (1).

Sheriff's
notice to
petit jurors

(2) Where the sheriff has received such a direction from the Crown attorney and the jurors have already been summoned, he shall forthwith by registered letter (Form 2, Schedule D) notify each person summoned to serve as a juror to attend the court on the day and at the hour mentioned in the direction and that his attendance is not required on the day named in the summons, and in case any person, after receiving the notice, attends the court on a day prior to that mentioned in the notice he is not entitled to receive any fees or mileage for such attendance. R.S.O. 1950, c. 191, s. 45 (2); 1951, c. 41, s. 10.

Where juror
attends
owing to
non-receipt
of notice

(3) Where, after the giving of such notice, a juror attends the sittings of the court on the opening day and the sheriff is satisfied that the notice was not received prior to such attendance and that the juror attended in good faith, believing such attendance to be necessary, the sheriff shall allow the juror his fees and mileage allowance. R.S.O. 1950, c. 191, s. 45 (3); 1951, c. 41, s. 10.

Judge of
county
court may
order
additional
petit jurors
for Supreme
Court
sittings

48.—(1) The judge of the county court, if after the issue of the precept it appears to him expedient, may at any time prior to the day appointed for the sittings of the Supreme Court, by order under his hand and seal, and the judge assigned to hold the sittings or the presiding judge may, at any time before or during the sittings of such court, by order under his hand and seal, direct the sheriff to return an additional number of petit jurors.

Additional
petit jurors
for inferior
courts

(2) The judge of the county court, after the issue of the precept, at any time prior to or during the sittings of the county court or court of general sessions of the peace, by order under his hand and seal, may direct the sheriff to return an additional number of petit jurors.

Duty of
sheriff as to
drafting
additional
number of
jurors

(3) The sheriff, upon the receipt of any such order, shall forthwith draft such additional number of jurors in the manner provided by this Act, and shall add their names to the panel, and shall forthwith thereafter summon them. R.S.O. 1950, c. 191, s. 46.

Release of
jurors
by judge

49.—(1) Any number of jurors summoned for a jury sittings of the Supreme Court or of the county court may, until re-summoned by direction of a judge, be released from service or further service, as the case may be,

- (a) at any time before the sittings by a judge authorized to issue a precept for the sittings of the court; or
- (b) at any time during the sittings by the judge presiding at the sittings. 1955, c. 37, s. 9 (1), *part.*

(2) Where a number of jurors are to be released from service before the sittings under this section, the judge shall so advise the sheriff who, in the presence of the clerk of the peace and a justice of the peace, shall place all the cards upon which the names of the jurors are written in the box provided for that purpose and shall cause it to be thoroughly shaken and shall then withdraw from the box, one at a time, the number of cards equivalent to the number of jurors who are to be released, and the sheriff shall notify in writing the persons whose names appear on the cards that they are released. 1955, c. 37, s. 9 (1) *part*; 1956, c. 34, s. 1 (1).

Selection of jurors to be released before sittings

(3) For each selection of jurors to be released from service before the sittings under this section, the justice of the peace in attendance shall, upon receipt of the sheriff's certificate of such attendance, receive the sum of \$5 from the treasurer of the county where the sittings take place. 1956, c. 34, s. 1 (2).

Remuneration of justice of the peace

(4) Where a number of jurors are to be released from further service during the sittings under this section, the judge shall, in the presence of the jury panel and in open court, so advise the clerk of the court, who shall place all the cards upon which the names of the jurors are written in the box provided for that purpose and shall cause it to be thoroughly shaken and shall then withdraw from the box, one at a time, the number of cards equivalent to the number of jurors who are to be released, and the jurors whose names appear on the cards shall thereupon be released by the judge. R.S.O. 1950, c. 191, s. 47 (2); 1955, c. 37, s. 9 (2).

Selection of jurors to be released during sittings

(5) Where jurors have been released under this section, the trial of any person charged with an indictable offence shall not be commenced at the sittings of the court unless such jurors have been summoned to re-attend at such sittings on or before the date upon which any such trial is commenced, or unless a new panel of jurors has been summoned to attend such sittings returnable on or before such date.

Trial of person charged with indictable offence

(6) Where jurors are released under this section, they are not entitled to receive the fees provided by this Act during the period of release. R.S.O. 1950, c. 191, s. 47 (3, 4).

Fees

50. The proper officer in the office of the Registrar of the Supreme Court at Osgoode Hall, Toronto, shall procure the precepts for the return of panels of grand and petit jurors required for the sittings of the Supreme Court, and transmit them to the sheriffs as soon as conveniently may be after the day has been appointed for the sittings for which the jurors are required. R.S.O. 1950, c. 191, s. 48.

Precepts to be sent to sheriffs

When same panels for general sessions and county courts

51. Where the same day is appointed for holding the court of general sessions of the peace and the sittings of the county court, the sheriff may return the same panel to the precepts for the panels of petit jurors. R.S.O. 1950, c. 191, s. 49.

Two or more sets of petit jurors

52.—(1) Where a judge of the Supreme Court deems it necessary to have two or more sets of petit jurors to serve at any sittings of the Supreme Court, he may direct the sheriff to return such number of petit jurors as he thinks fit, not exceeding,

(a) in the county of York, 625;

(b) in the county of Wentworth, 270; and

(c) in any other county, 180,

and the judge shall fix and direct the number of sets and the day for which each set shall be summoned. R.S.O. 1950, c. 191, s. 50 (1); 1951, c. 41, s. 5.

Sheriff to divide jurors into sets

(2) The sheriff shall divide such jurors into as many sets as are directed, and shall in the summons to every juror specify at what time his attendance will be required.

Each set a separate panel

(3) Each set shall for all purposes be deemed a separate panel. R.S.O. 1950, c. 191, s. 50 (2, 3).

The Supreme Court may issue precepts as heretofore

53. Subject to this Act, the Supreme Court and the judges thereof have the same power and authority as heretofore in issuing any precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before the court, or for amending or enlarging the panel of jurors returned for the trial of any such issue, and the return to any precept, award or order shall be made in the manner heretofore used and accustomed, and the jurors shall, as heretofore, be returned from the body of the county, and shall be qualified according to this Act. R.S.O. 1950, c. 191, s. 51.

The directions for precepts, at sittings of Supreme Court to apply to general sessions

54. The provisions of this Act respecting the issue of precepts for the return of a panel of grand jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall in all particulars be observed and followed with respect to the sittings of the court of general sessions of the peace. R.S.O. 1950, c. 191, s. 52.

And county courts

55. The provisions of this Act respecting the issue of precepts for the return of a general panel of petit jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall be observed and followed in all particulars with respect

to the sittings of the several county courts. R.S.O. 1950, c. 191, s. 53; 1953, c. 51, s. 2.

DRAFTING PANELS FROM JURY LISTS

56. Every sheriff to whom a precept for the return of jurors is directed shall, to such precept, return a panel of the names of the jurors contained in the proper jury list, whose names shall be drafted from such list in the manner hereinafter mentioned. R.S.O. 1950, c. 191, s. 54. How sheriffs to draft panels of jurors

57. Where there is no jurors' book for the year or certified copy thereof in existence, the sheriff may return a panel of jurors drafted from the proper jury list in the jurors' book of the nearest preceding year for which there is a jurors' book or certified copy thereof in existence. R.S.O. 1950, c. 191, s. 55. If no jurors' book for the year

58. Where there are no jurors, or not a sufficient number upon the jury list, the sheriff may return to the precept a panel of jurors drafted, or the residue of whom have been drafted from the proper jury list in the jurors' book of the nearest preceding year for which there is a jurors' book or certified copy thereof in existence. R.S.O. 1950, c. 191, s. 56. If not a sufficient number on the lists

59.—(1) Upon receipt of the precept, the sheriff shall post up in his office, and also on the door of the court house of the county, or if there is no court house, then in some other public place, written notice of the day and hour at which he will attend at the office of the clerk of the peace to draft the panel of jurors, and at that time and place he shall draft the panel by ballot from the jury list in the presence of the clerk of the peace and a justice of peace required to attend upon reasonable notice from the sheriff. Sheriff to give notice and draft panel

(2) For each panel drafted, the justice of the peace in attendance shall, upon receipt of the sheriff's certificate of such attendance, receive the sum of \$5 from the treasurer of the county for which the panels were drafted. 1956, c. 34, s. 2. Remuneration of justice of the peace

60. If the sheriff has sufficient time, he shall post up such notice at least eight days before the drafting of the panel, and, if there is not sufficient time, he shall post up the notice forthwith upon receipt of the precept. R.S.O. 1950, c. 191, s. 58. Notice to be 8 days if time admits

61. If the drafting or completing of the panel at the time appointed is prevented by unavoidable accident, it may be subsequently done or completed upon similar notices being first given. R.S.O. 1950, c. 191, s. 59. If drafting not completed

How sheriff
to prepare a
panel

62.—(1) Before proceeding to draft a panel of jurors from a jury list, the sheriff shall prepare a proper title or heading for the panel of jurors to be returned, to which he shall fix an appropriate number according as such panel by the jurors' book appears to be the first, second, third or subsequent panel drafted from such jury list, and the title or heading shall set forth in words at length the number of jurors to be returned.

Ballots for
drafting
panel

(2) The sheriff shall then append to such title or heading a list of numbers from "1" forward to the number required, and shall prepare a set of ballot papers of uniform and convenient size containing the same number of ballot papers as there are numbers on the jury list, allowing one number to each ballot paper, which number shall be printed or written on it, and he shall then proceed to draft the panel of jurors. R.S.O. 1950, c. 191, s. 60.

How panel
of jurors to
be drafted

63. The manner of drafting the panel shall be as follows:

1. The sheriff shall place the ballot papers in a box or urn, and shall cause it to be shaken so as sufficiently to mix the ballot papers, and he shall then openly draw from the box or urn indiscriminately one of the ballot papers, and declare openly the number on such ballot paper, whereupon the clerk of the peace, or the justice of the peace in attendance shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the jury list.
2. If such person is exempt from being drafted or from serving upon such panel under section 3, or if upon the face of such jury list it appears that the person whose number has been so drafted has previously been drafted to serve on a panel drafted from such jury list in obedience to a precept for the return of a general panel for any sittings of the Supreme Court, the court of general sessions of the peace, or county court, and that such person has actually attended and served upon such panel, and a sufficient number of names to complete the panel then in course of being drafted, remains on the jury list without taking any of those who have been so previously drafted, the sheriff shall publicly announce the fact of such exemption or previous service, and that the name of the person so drafted is, for that reason, not inserted in the panel.
3. If no such cause appears for omitting the name of such person from the panel, the name and addition of the person whose name has been so drafted shall be

thereupon written down, and shall be marked by the sheriff on such jury list, with a reference to the number that will belong to such panel in the jurors' book.

4. The sheriff shall then proceed in like manner to draft and dispose of other numbers from the box or urn, until the necessary number for the panel has been completed, and such drafting and disposing of the numbers from the box or urn shall be done so that the panel when completed will not contain the name of a husband and his wife.
5. The names of the persons so drafted, arranged alphabetically, with their places of residence and additions shall then be transcribed by the sheriff upon another sheet of paper, with a reference to the number of each name on the jury list, and each name shall be thereupon marked by him or by his deputy upon the jury list book, with a reference to the number that belongs to such name in the panel in the jurors' book.
6. The panel so alphabetically arranged and numbered, with a short statement of the precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the sheriff, or his deputy, and of the clerk of the peace and the justice of the peace, present at such drafting, or of at least two of them, shall then be entered in the jurors' book, and attested by the signatures of the sheriff, or his deputy, and of the clerk of the peace and the justice of the peace, or at least two of them. R.S.O. 1950, c. 191, s. 61; 1951, c. 41, s. 6; 1956, c. 34, s. 3.

64. The sheriff shall, upon his return to the precept, annex thereto a panel containing the names, places of residence, and additions of the persons so drafted, and shall transmit one copy thereof to the clerk of the peace, and another to the office of the Registrar of the Supreme Court at Osgoode Hall, Toronto, or to the local registrar, or to the clerk of the county court, as the case may be. R.S.O. 1950, c. 191, s. 62.

Copies of
panel to be
transmitted

65. The jurors' book and every list containing the names of the jury drafted for any panel shall be kept under lock and key by the sheriff and every officer mentioned in section 64 having a copy thereof, and except in so far as may be necessary in order to prepare the lists of the panel, and serve the jury summons, shall not be disclosed by the sheriff, his deputy, officer, clerk, or by any officer mentioned in section 64, or by any other person, until ten days before the sittings of the court for which the panel has been drafted, and during such period of ten days, the sheriff, or his deputy, and any officer mentioned

Secrecy of
jurors' book
and panel

in section 64 having a copy of the panel shall permit the inspection at all reasonable hours of the jurors' book and of the panel or copy thereof in his custody by litigants or accused persons or their solicitors and shall furnish the litigants or accused persons or their solicitors, upon request and payment of a fee of \$2, with a copy of any such panel. R.S.O. 1950, c. 191, s. 63 (1).

SUMMONING JURORS

Jurors to be summoned 10 or 15 days before attendance required

66.—(1) The sheriff shall summon every person drafted to serve on grand juries or petit juries, by sending to him by registered mail a notice in writing (Form 3, Schedule D) under the hand of the sheriff, at least ten days, in the case of a county, and at least fifteen days, in the case of a provisional judicial district, before the day upon which the person is to attend, but when the sheriff is directed to draft and summon additional jurors under this Act, such ten or fifteen days service, as the case may be, is not necessary. R.S.O. 1950, c. 191, s. 64 (1); 1952, c. 46, s. 2.

When actions to be entered for trial

(2) Subject, in the case of an action in the Supreme Court, to any order made by a judge of that court, and in the case of an action in the county court, to any order made by a judge of the county court, actions to be tried by a jury, whether in the Supreme Court or the county court, shall be entered for trial not later than six clear days before the first day of the sittings, provided that no order extending the time shall be made after the notice provided for by subsection 5 has been given by the sheriff to the jurors. R.S.O. 1950, c. 191, s. 64 (2).

Counter-manding jury summonses where no business for jury

(3) Where there is no business requiring the attendance of a jury at a sittings of the Supreme Court or of a county court for the trial of actions with a jury, the local registrar or the clerk of the county court, as the case may be, at least five clear days before the day appointed for the sittings, shall give notice thereof in writing (Form 5, Schedule D) to the sheriff that the attendance of jurors is not required. R.S.O. 1950, c. 191, s. 64 (3); 1951, c. 41, s. 10.

For criminal prosecutions or general sessions

(4) A similar notice shall be given to the sheriff by the clerk of the peace in the case of a sittings of the Supreme Court for the trial of criminal prosecutions, or in case of the sittings of the court of general sessions of the peace in a county, when it appears that the attendance of jurors at such sittings is not required. R.S.O. 1950, c. 191, s. 64 (4); 1951, c. 41, s. 10.

Notice to be given to juror

(5) Subject to subsection 8, the sheriff, upon receipt of such notice or notices, shall forthwith by registered letter or otherwise, as he deems expedient, notify (Form 6, Schedule D) each person summoned to serve as a juror that his attend-

ance at the sittings is not required, and in case any person so summoned attends after receiving such notice, he is not entitled to any fees or mileage for attendance. R.S.O. 1950, c. 191, s. 64 (5); 1951, c. 41, s. 10.

(6) Where, after the giving of such notice, a juror so summoned attends the sittings and the sheriff is satisfied that the notice was not received prior to the attendance and that the juror attended in good faith, believing such attendance to be necessary, the sheriff shall allow the juror his fees and mileage allowance. R.S.O. 1950, c. 191, s. 64 (6); 1951, c. 41, s. 10.

Where juror attends owing to non-receipt of notice

(7) For sending every notice required by subsection 5 there shall be paid to the sheriff in the same manner and out of the same funds as the fees for the summoning of jurors the sum of 25 cents, and necessary disbursements paid by him for each juror so notified. R.S.O. 1950, c. 191, s. 64 (7); 1951, c. 41, s. 10.

Fees of sheriff for sending notices

(8) In the case of a sittings of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace, the sheriff shall not give the notice mentioned in subsection 5 unless he is satisfied that there is no prisoner in the common jail awaiting trial at the sittings. R.S.O. 1950, c. 191, s. 64 (8).

Sheriff must ascertain that there are no prisoners in custody

67. Notwithstanding anything in this Act, the proper officer shall summon, in the manner heretofore used and accustomed, every person required to serve upon any inquest or inquiry before a coroner, or before any commissioners appointed under the Great Seal, or under the seal of the Supreme Court, or to serve as a talesman upon any jury. R.S.O. 1950, c. 191, s. 66.

Proper officer to summon jurors whenever required

68. Every sheriff shall be indemnified for empanelling and returning as a grand or petit juror any person named in or taken from the grand or petit jurors' rolls for the year in which he is summoned, although the person may not be qualified or liable to serve as a juror for such year. R.S.O. 1950, c. 191, s. 67.

Sheriff indemnified for returning unqualified persons, if in the rolls of jurors

EMPANELLING THE GRAND JURY

69. Where there do not appear as many as thirteen of the grand jurors summoned upon a panel returned upon any precept to a court of criminal jurisdiction, the court, upon the request of the Attorney General, or of counsel for the Crown, or of the Crown attorney, may command the sheriff to name and appoint so many persons then present or who can be found, whether on the panel of petit jurors or not,

If sufficient grand jurors do not appear

as will make up a grand inquest of thirteen, and the sheriff shall return such persons to serve on such grand inquest, and shall add their names to the panel returned upon such precept, and the court shall proceed with those grand jurors who were before empanelled, together with the talesmen so newly added, as if all such jurors had been originally returned upon such precept. R.S.O. 1950, c. 191, s. 68.

DRAWING JURY AT TRIAL

Empanelling
petit jury at
the trial

70. The name of every person summoned and empanelled as a petit juror upon the general precept for a sittings of the Supreme Court, the court of general sessions of the peace, or county court, with his place of residence and addition, shall be written distinctly by the sheriff on a card or paper, as nearly as may be of the form and size following, viz.:

DAVID BOOTH

of Lot No. 11, in the 7th Con. of Albion

MERCHANT

and the names so written shall, under the direction of the sheriff, be put together in a box or urn to be provided by him for that purpose, and he shall deliver it to the clerk of the court. R.S.O. 1950, c. 191, s. 69.

How the
clerk is to
proceed to
draw names

71.—(1) Where an issue is brought on to be tried, or damages are to be assessed by a jury, the clerk shall, in open court, cause the box or urn to be shaken so as sufficiently to mix the names, and shall then draw out six of the cards or papers, one after another, causing the box or urn to be shaken after the drawing of each name, and if any juror whose name is so drawn does not appear or is challenged and set aside, then such further number until six jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first six jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the clerk of the court, shall be sworn, and shall be the jury to try the issue or to assess the damages. R.S.O. 1950, c. 191, s. 70 (1); 1955, c. 37, s. 12.

Names
drawn to be
kept apart
etc.

(2) The cards or papers containing the names of persons so drawn and sworn shall be kept apart until the jury has given in its verdict, and it has been recorded, or until the jury has

been by consent of the parties, or by leave of the court, discharged, and shall then be returned to the box or urn, there to be kept with the other cards or papers remaining therein. R.S.O. 1950, c. 191, s. 70 (2).

72. If an issue is brought on to be tried, or damages are to be assessed, at any such sittings before the jury in any other cause has brought in its verdict, or been discharged, the court may order six of the residue of the cards or papers to be drawn for the trial of the issue so brought on to be tried, or for the assessment of damages, as the case may be. R.S.O. 1950, c. 191, s. 71; 1955, c. 37, s. 13.

If another jury is required before the last drawn has brought in its verdict

73. Notwithstanding sections 71 and 72, where no objection is made on the part of the Crown, or any other party, the court may try any issue or assess damages with the jury previously drawn to try any other issue, or to assess damages, without the cards or papers containing their names being returned to the box or urn and redrawn, or may order any of the jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the court, to retire and may cause another name or other names to be drawn from the box or urn, and shall try the issue or assess the damages with the residue of the original jury and the new jurors who appear and are approved as indifferent. R.S.O. 1950, c. 191, s. 72.

Several causes may be tried in succession by the same jury

74.—(1) Where a full jury does not appear at a sittings of the Supreme Court, or at a sittings of the county court or of the court of general sessions of the peace, or where, after the appearance of a full jury, by challenge of any of the parties, the jury is likely to remain untaken for default of jurors, the court may command the sheriff to name and appoint so many of such other able persons of the county then present, or who can be found, as will make up a full jury, and the sheriff shall return such persons to serve on the jury. R.S.O. 1950, c. 191, s. 73 (1); 1951, c. 41, s. 7.

If a full jury does not appear a *tales* may be granted

(2) Where a full jury does not appear, the names of the persons so returned shall be added to the panel returned upon the precept. R.S.O. 1950, c. 191, s. 73 (2).

Adding names of *talesmen*

75. The presiding judge before whom a civil case is or may be heard may in his discretion on an application made by or on behalf of the parties or any of them or at his own instance, make an order for the jury to be composed of men only or of women only, as the case may require, or may, on an application made by a woman, excuse her from service on a jury in respect of any case, civil or criminal, by reason of the nature of the evidence to be given or the issues to be tried. 1951, c. 41, s. 8.

How jury to be composed

ENTRY OF SERVICE OF JURORS

The sheriff
to note on
lists names
of jurors
who do not
serve

76. Immediately after the sittings of the Supreme Court and of the court of general sessions of the peace, and of the county court, the sheriff shall note on the jury list from which the panel of grand jurors, if any, returned to the sittings was drafted, and on the jury list from which the panel of petit jurors was drafted, opposite the names of the jurors, the non-attendance or default of every juror who has not attended until discharged by the court. R.S.O. 1950, c. 191, s. 74.

CHALLENGES

Lack of
qualification

77. If a person not qualified is drawn as a juror for the trial of an issue in any matter or proceeding, the want of qualification is a good cause of challenge, but the want of a sufficient property qualification is not a good cause of challenge nor a cause for discharging the juror upon his own application. R.S.O. 1950, c. 191, s. 75.

Peremptory
challenges in
civil cases

78. In any cause, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may challenge peremptorily any four of the jurors drawn to serve on the trial, and such right of challenge extends to the Crown when a party. R.S.O. 1950, c. 191, s. 76.

Ratepayers,
officers, etc.,
of municipi-
ality
may be
challenged

79. In a matter or proceeding to which a municipal corporation, other than a county, is a party, every ratepayer, and every officer or servant of the corporation, is for that reason, liable to challenge as a juror. R.S.O. 1950, c. 191, s. 78.

VIEW BY JURORS

View by
jurors

80.—(1) Where in an action it appears to the presiding judge that in order to understand better the evidence the jurors who are to try the issues ought to have a view of the place or of the real or personal property in question, whether it be within or without the county in which the trial is to take place, he may at any time after the jurors have been sworn and before they give their verdict order that the jurors have such view.

Terms of
order

(2) The order may be made on such terms as to costs and the adjournment of the trial and otherwise as is deemed just, and shall contain directions to the sheriff as to the manner in which and the persons by whom the place or the property in question shall be shown to the jurors and any other directions that under the circumstances the judge thinks proper. R.S.O. 1950, c. 191, s. 87.

MISCELLANEOUS

81. The omission to observe any of the provisions of this Act as respects the qualification, selection, balloting and distribution of jurors, the preparation of the jurors' book, the selecting of jury lists from the jurors' rolls, or the drafting of panels from the jury lists is not a ground of impeaching the verdict or judgment in any action. R.S.O. 1950, c. 191, s. 88; 1952, c. 46, s. 4.

Omissions to observe this Act not to vitiate the verdict

82.—(1) No person is liable to be summoned or empanelled to serve as a juror upon any inquest or inquiry to be taken or made by or before any commissioners appointed under the Great Seal, or the seal of any court having general jurisdiction throughout Ontario or throughout any county, unless the name of the person appears upon the jurors' rolls for the year in which the person is called upon to serve on the inquest or inquiry.

No person to be summoned whose name is not on the roll of jurors

(2) This section does not extend to any inquest or inquiry to be taken or made by or before a sheriff, coroner or bailiff. R.S.O. 1950, c. 191, s. 89, *amended*.

Exception: coroners' juries, etc.

FEES

83.—(1) Every grand juror attending a sittings of the Supreme Court or of the court of general sessions of the peace and every petit juror attending a sittings of the Supreme Court or of the court of general sessions of the peace or of the county court is entitled to receive \$10 a day for every day on which he was necessarily absent from his place of residence for the purpose of attending the sittings.

Jurors' fees

(2) Where a juror travels by his own automobile, he is entitled to receive, as a travelling allowance, 10 cents a mile each way for each mile necessarily travelled between his place of residence and the place where the sittings are held, except that, where the sittings are held in a city in which the juror resides, he is entitled to a travelling allowance of 75 cents, and the distance travelled shall be ascertained by the declaration of the sheriff.

Jurors' travelling allowance

(3) Where a juror travels by a means of transportation other than his own automobile, he is entitled to receive, as a travelling allowance, a sum equal to the amount of the fare actually paid for the transportation from his place of residence to the place where the sittings are held and return.

Idem

(4) Where a juror is required to attend the sittings on more than one day and returns to his place of residence at night, he is entitled to the travelling allowance mentioned in subsection

Allowance for each day's attendance

2 or 3, as the case may be, in respect of each day's attendance.

Over-night
allowance

(5) Where a juror resides elsewhere and in the opinion of the sheriff it is desirable that he remain at the place of sittings over-night, he is entitled to receive a sum equal to the amount reasonably and actually paid by him for living expenses, but not more than \$8 for each night. 1959, c. 48, s. 1.

Sheriff to
make a pay
list for petit
jurors

84.—(1) The sheriff shall make a pay list (Schedule C) for the petit jurors and shall attend or cause some officer to attend at the opening of the court on every day on which the court sits for the trial of actions by jury, and upon the petit jurors being called, shall check and mark the word "present" or "absent", as the case may be, in the proper column of the list opposite the name of every juror, and on the last day of the sittings of the court shall certify and return the pay list to the treasurer of the county, and the treasurer shall forthwith pay to every petit juror the sum to which he appears by the list to be entitled.

County
court
and general
sessions to
be deemed
one court

(2) The county court and the court of general sessions of the peace shall for the purposes of this section be deemed to be one court, and the duty of calling the jurors at the opening of the court shall be performed by the clerk of whichever court is first opened. R.S.O. 1950, c. 191, s. 91.

Allowance
to sheriffs

85.—(1) The sheriff is entitled to receive from the treasurer of the county such sum for the pay list and such sum per diem for checking and for certifying and returning it to the treasurer as, in the case of a county, the county council by by-law determines, and, in the case of a provisional judicial district, as the Lieutenant Governor in Council determines.

Sheriff's fee
for checking
panel and
returning
list

(2) Where such sums have not been fixed under subsection 1, the sheriff is entitled to receive from the treasurer of the county or district \$1 per day for checking the jury panel and \$1 for certifying and returning the list to the treasurer. R.S.O. 1950, c. 191, s. 92.

List of
jurors to be
called

86. The clerk of the court or the clerk of the peace, as the case may be, shall, at the opening of the court and before any other business is proceeded with, call the names of the petit jurors, so that the sheriff or his officer may check off those who are present or absent. R.S.O. 1950, c. 191, s. 93.

Jurors not
attending
not to be
paid

87. A petit juror not appearing when called is not entitled to pay for the day on which he makes default. R.S.O. 1950, c. 191, s. 94.

Sums to be
paid with
record when
entered for
trial in jury
cases

88.—(1) With every record entered for trial of issues or assessment of damages by a jury in the Supreme Court there shall be paid to the Registrar or the local registrar of the Supreme Court, as the case may be, the sum of \$3, and in

the county court to the clerk of the county court, the sum of \$1.50, and the record shall not be entered unless such sum is first paid.

(2) Subject to any agreement made between the corporation of the county and the corporation of the county town, such sum, in the case of a county, shall be forthwith paid over to the treasurer of the county and shall form part of the fund for the payment of petit jurors, and, in the case of a district, shall be forthwith paid over to the treasurer of the district and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 191, s. 96. How to be dealt with

89. All fines imposed upon jurors for non-attendance shall, in the case of a county, be paid to the treasurer of the county and shall form part of the fund for the payment of petit jurors, and, in the case of a district, shall be paid to the treasurer of the district and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 191, s. 97. Certain fines to go towards payment of jurors

90. If the sums appropriated by this Act are not sufficient to pay the petit jurors, the county council shall raise and appropriate such sum of money as will be sufficient to pay them. R.S.O. 1950, c. 191, s. 98. Funds for paying jurors

91. The local selectors for every selection and distribution of jurors, and the report thereof, are entitled to such sum as is authorized by the council of the municipality, and, upon receipt of a certificate from the clerk of the peace that the report has been returned to him within the time fixed by this Act, such sum shall be paid to them by the treasurer of the municipality. R.S.O. 1950, c. 191, s. 99. Fees to the local selectors

92.—(1) The county selectors are entitled to the sum of \$4 for each day's attendance in the performance of their duties under this Act, but when the number of grand and petit jurors to be selected does not exceed 500, no selector is entitled to be paid for a greater number of days than four. Fees of county selectors

(2) When the number to be selected exceeds 500, each selector actually attending is entitled to be paid as for one additional day for every 200 additional names selected, and no more. Additional fees

(3) Upon receipt of a certificate from the clerk of the peace that the duties required of the county selectors have been duly performed by them, such sum shall be paid by the treasurer of the county to every such selector, and the clerk of the peace shall be paid for his attendance at the meeting of the county selectors the same fees as a county selector. R.S.O. 1950, c. 191, s. 100. Payment

Fees to
clerks of
the peace

93. The clerk of the peace is entitled to the following fees:

1. For receiving, examining and filing the reports of the local selectors for each municipality, and causing any deficiency found therein to be supplied. \$.50
2. For giving certificates to selectors of jurors of duties having been performed; but only one certificate for all the selectors for each municipality shall be given.50
3. For preparing and superintending the making up of each jurors' book (besides actual disbursements for stationer's charges). . . 3.00
4. For making up jurors' books, entering all the names and numbers, and all other matters required to be entered therein, per 100 names. 2.00
5. For each copy of the jurors' book required by this Act, per 100 names. 2.00
6. For each certificate required to be entered in the jurors' book. 1.00
7. For copy of jury list required to be entered, per 100 names. . . 2.00
8. For each panel of jurors drafted from the jury list, per 100 names on each jury list. 2.00
9. For each selection of jurors to be released before sittings of a court. 5.00
10. For entering each panel in the jurors' book, with the numbers corresponding to the jury list. 2.00
11. For making up aggregate return in detail of jurors. 5.00
12. For copy thereof, and transmitting same to Provincial Secretary when required. 2.00
13. For each office copy of the same. 2.00

R.S.O. 1950, c. 191, s. 101; 1956, c. 34, s. 4.

Sheriff's
fees

94. The sheriff, in addition to such fees as he is entitled to from the parties to an action, is entitled to the following fees:

1. For each panel of jurors, grand or petit, returned and summoned by him in obedience to any general precept. \$5.00
2. For copies of such panel to be transmitted to the proper officers, each. 2.00
3. For every summons served upon the jurors on a panel.50
4. For every mile which the sheriff or his deputy or bailiffs necessarily and actually travelled from the county town for the purpose of serving such summonses (such mileage to be allowed for going only and not for returning, and this item not to apply where such summonses are mailed as provided by this Act). 2.00
5. Advertising the drafting of jury panels (required by section 59). . 2.00
6. Notices to clerk of the peace and justices (required by section 59), each.50
7. Attending to draft jury panels. 5.00
8. Writing names of jurors on cards. 4.00
9. For every notice to jury not to attend, section 66 (7).25
10. Attending, locking up or feeding petit juries, or taking grand jurors to inspect institutions (exclusive of disbursements). For each jury. 4.00
11. For each daily checking of jury panel (section 85). 1.00
12. For certifying and returning list of jury panel to treasurer (section 85). 1.00
13. When sheriff acts as county selector of juries per diem (section 92). 4.00

R.S.O. 1950, c. 191, s. 102.

95. In the cases provided for by sections 92 and 93, where there are more than one hundred or more than an even number of hundreds of such names, if the broken number beyond the hundred or hundreds falls short of fifty names, the same shall not be reckoned, and if the broken number amounts to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred. R.S.O. 1950, c. 191, s. 103.

If there are more than 100 names

96.—(1) Upon proof by affidavit of the services having been performed and upon the account being audited and an order of the board of audit, if any, being made for payment, the treasurer of the county shall pay to such officers the amount of their fees.

How the fees shall be paid

(2) In the case of a sheriff's account, there shall be annexed to the affidavit a detailed statement showing the number of miles actually and necessarily travelled in effecting service of the summons on each juror, so that at the end of the journey upon which the services were made the officer summoning the jury is entitled to mileage only for the number of miles actually travelled. R.S.O. 1950, c. 191, s. 104.

Affidavits as to mileage

PENALTIES

97. If a person, having been duly summoned to attend on a jury, does not attend in pursuance of the summons, or being there called does not answer to his name, or if a juror or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the court, the court may impose such fine upon the juror or talesman as is deemed proper. R.S.O. 1950, c. 191, s. 105.

On jurors for non-attendance

98.—(1) If a person having been duly summoned and returned to serve as a juror upon an inquest or inquiry before a sheriff or coroner, or before any of the commissioners mentioned in section 67, does not, after being openly called three times, appear and serve, the sheriff, coroner or commissioners may impose such fine, not exceeding \$20, upon the person so making default as is deemed proper.

On jurors failing to attend upon inquests and inquiries, etc.

(2) The sheriff, coroner or commissioners shall make out and sign a certificate containing the name, the residence and addition of every person so making default, together with the amount of the fine imposed and the cause of the fine, and

Sheriff to certify defaults and transmit copies

transmit the certificate to the clerk of the peace for the county in which the defaulter resides, on or before the first day of the sittings of the court of general sessions of the peace next ensuing.

Fines to be
estreated

(3) The clerk of the peace shall enter the fine so certified on the roll on which fines and forfeitures imposed at the court of general sessions are entered, and it shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if it had been a fine imposed at a sittings of the court of general sessions of the peace. R.S.O. 1950, c. 191, s. 106.

On sheriffs,
etc., for
default to
perform
duties
assigned
to them

99. If a sheriff wilfully empanels and returns to serve on a jury a person whose name has not been duly drawn upon the panel in the manner prescribed in this Act, or if a registrar, clerk of the peace, or other officer wilfully records the appearance of a person so summoned and returned who has not actually appeared, the court may, upon examination in a summary way, impose such fine upon the sheriff, clerk of assize, clerk of the peace, or other officer as is deemed proper. R.S.O. 1950, c. 191, s. 107.

On sheriffs,
etc., taking
money as
a bribe

100. No sheriff or other officer or person shall, directly or indirectly, take or receive money or other reward or promise of money or reward, to excuse any person from serving or being summoned to serve as a juror, and no bailiff or other officer appointed by a sheriff to summon jurors shall summon or pretend to summon any person to serve as a juror other than those whose names are specified in a warrant or mandate signed by the sheriff and directed to the bailiff or other officer, and if a sheriff or other officer wilfully transgresses in any of such cases, the Supreme Court, the court of general sessions of the peace or county court within whose jurisdiction the offence has been committed may impose upon the person so offending such fine as is deemed proper. R.S.O. 1950, c. 191, s. 108.

Offences

101. Every person who,

- (a) being a sheriff or deputy sheriff, makes or causes to be made any alteration in any of the rolls, lists or panels in any jurors' book, or in the certified copies thereof in his custody, except in compliance with the directions of this Act, or neglects or refuses to prepare the jurors' book, the ballot papers necessary for drafting the panels, striking special juries and drawing juries at the trial, or neglects or omits to return the jurors' book and the ballot papers for drafting the jury lists to the court to which he is required to return

it, or neglects or omits to perform any other duty required of him by this Act, or wilfully does anything inconsistent with this Act; or

- (b) being a registrar or local registrar of the Supreme Court, makes or causes to be made any alteration in the rolls, lists or panels in any jurors' book, or in any copy thereof deposited in his office, or wilfully certifies as true any copy of a jurors' book, or any roll, list or panel therein, that is not a true copy thereof; or
- (c) being a clerk of a local municipality, or an assessment commissioner, assessor or other officer or person who, at the time of the annual meeting of the local selectors, has the actual charge or custody of the assessment roll of the municipality for such year, neglects or omits to perform the duties required of him by section 18; or
- (d) being a local selector, wilfully selects, ballots and reports as qualified and liable to serve as a grand or petit juror any person who, according to this Act, ought not to be so selected, balloted or reported, or takes money or other reward for selecting, balloting or reporting, or omitting to select, ballot or report any person, or wilfully inserts in his report a wrong description of the name, place of residence, or addition of a person so selected, balloted and reported, or neglects or omits to complete his selection, ballot and report, and to deposit it in the proper office on or before the 25th day of October of the year for which he acts as local selector; or
- (e) being a clerk of the peace, neglects or omits to perform any duty required of him in the manner herein prescribed, or wilfully does anything inconsistent with this Act,

shall for each offence forfeit the sum of \$200, one half of which shall be paid over to the treasurer of the county and shall form part of the fund for the payment of petit jurors, and the other half, with full costs, to any person who sues for it in any court of competent jurisdiction; and every such action shall be tried by the judge without the intervention of a jury, and when the action has been commenced in the county court, the judge of the county court shall, upon the application of either party thereto, by his order direct that it be tried at a sittings of the Supreme Court, and the record may thereafter be entered and the action tried at such sittings. R.S.O. 1950, c. 191, s. 109.

102. All penalties under this Act for which no other remedy is given may be recovered under *The Summary Convictions Act*. R.S.O. 1950, c. 191, s. 110.

Recovery of
penalties
R.S.O. 1960,
c. 387

Tampering
with jurors

103.—(1) It is a contempt of court for any person interested in an action in any court, or his solicitor, counsel, agent or emissary, before or during the sittings of court at which the action is, or is to be, entered for trial or may be tried, or at any time after a juror has been summoned, knowingly, directly or indirectly to speak to or consult with a juror upon the jury panel for such court respecting such action or any matter or thing relating thereto.

Barrister,
solicitor or
student to
be disbarred
or
suspended

(2) Where a solicitor or barrister or student at law or articulated clerk is guilty of such offence he may, in addition to any other penalty, be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by the Supreme Court upon motion at the instance and in the name of the Attorney General.

Exception
where juror
is a party
or witness

(3) This section does not apply where a juror is also a party to or a known witness or interested in the action or is otherwise ineligible as a juror in the action, nor to anything that may properly take place in the course of the trial or conduct of the action. R.S.O. 1950, c. 191, s. 111.

GENERAL PROVISIONS

Posting up
copies of
s. 119 of
*Criminal
Code*

1953-54
c. 51 (Can.)

104. It is the duty of the sheriff at the sittings of the Supreme Court for trials by jury and the court of general sessions of the peace to post up in the court room and jury rooms and in the general entrance hall of the court house, printed copies in conspicuous type of section 119 of the *Criminal Code* (Canada). R.S.O. 1950, c. 191, s. 112.

Saving of
former
powers of
court and
judges
except as
altered

105. Nothing in this Act alters, abridges or affects any power or authority that any court or judge has, or any practice or form in regard to trials by jury, juries or jurors, except in those cases only where such power or authority, practice or form is repealed or altered, or is inconsistent with any of the provisions of this Act. R.S.O. 1950, c. 191, s. 113.

Effect of
1955 amend-
ments when
proclaimed

106. The amendments in subsection 1 of section 8 and in sections 11, 14 and 15 of *The Jurors Amendment Act, 1955*, when proclaimed in force, shall be deemed to be amendments to the corresponding provisions of this Act, namely, subsection 2 of section 45, section 69, Schedule B and Form 1 of Schedule D. *New.*

SCHEDULE A

(Section 24)

REPORT OF LOCAL SELECTORS FROM ASSESSMENT ROLL

Report of the selection and distribution of jurors for the municipality of , in the County of , for the year 19 , made by , Mayor (or Reeve), and , Clerk, and by and , Assessors (or by , Assessment Commissioner, and and , Assessors as the case may be), of the municipality, on the day of , 19 , pursuant to the directions of *The Jurors Act.* (see note 1).

FIRST DIVISION

For the Roll of Grand Jurors to serve in the Supreme Court of Ontario

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Hamlet, where known to the Selectors	OCCUPATIONS
John Anderson.....	16	2	Farmer
Peter Cameron.....	4	6	Merchant
William O'Leary.....	..	Oatlands	Retired
Alfred Piper.....	17	1	Plumber
etc.			

SECOND DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Hamlet, where known to the Selectors	OCCUPATIONS
William Adams.....	9	4	Gentleman
Richard House.....	7	5	Merchant
Allan Thomas.....	24	5	Retired
Jacob Wyse.....	2	1	Tailor
etc.			

THIRD DIVISION

For the Roll of Petit Jurors to serve in the Supreme Court of Ontario

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Ham- let, where known to the Selectors	OCCUPATIONS
David Boothe.....	11	7	Merchant
Henry Grace.....	1	7	Farmer
Nathan Lowe.....	6	1	Shoemaker
George Sullivan.....	3	4	Civil Servant
etc.			

FOURTH DIVISION

*For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of
Criminal and Civil Jurisdiction*

NAMES	No. of Lot or House, where known to the Selectors	Concession or Street, or Village or Ham- let, where known to the Selectors	OCCUPATIONS
William Carpenter	7	2	Clerk
George Gule.....	7	8	Tailor
Samuel Jones.....	15	3	Farmer
Thomas Hoole Rogers.....	11	1	Gentleman
etc.			

We, the above-named local Selectors for the Municipality of _____, solemnly declare, each for himself, that we have made the selection and distribution of Jurors in this Report from the proper lists of the municipality to the best of our judgment and information, pursuant to the directions of *The Jurors Act*, and that we have so made the same without fear, favour or affection of, to or for any person or persons whomsoever, gain, reward, or hope thereof, other than the fees to which we are entitled under the provisions of that Act.

Witness our hands and seals the day and year last above written.

A. B. [L.S.] Mayor or Reeve.

C. D. [L.S.] Clerk.

E. F. [L.S.] Assessment Commissioner.

G. H. [L.S.] Assessor.

I. J. [L.S.] Assessor.

R.S.O. 1950, c. 191, Sched. A.

SCHEDULE B

(Section 26)

JURORS' BOOK

The JURORS' BOOK for the County of , for the year 19 .
(See note 1)

1.—ROLL OF GRAND JURORS

To serve in the Supreme Court of Ontario
(See note 2)

No. on Roll	NAMES	No. of Lot or House	Concession or Street, or Village or Ham- let	OCCUPATIONS	No. on List	REMARKS
	1 KING (Township)					
1	Anderson, John . .	16	..	Farmer		Exempted, having served on G.J. List S.C., 19
2	Aylof Graham . . .	9	4	Gentleman		
3	Bosworth, David .	11	7	Merchant		
4	Cameron, Peter . . (Etc., to, say)	4	6			
20	Young, David . . .	7	8	Tailor	3	
	2 MARKHAM (Township)					
21	Allan, Simon	21	7			
22	Bolland, George (Etc., to, say)	5	12	Gentleman	2	
31	Wilkinson, James .	13	4	Farmer		
32	Yates, Edward . . .	1	5		144	
	3 NEWMARKET (TOWN)					
	4 TORONTO (City)					
	26 YORK (Township)					
503	Arthur, Thomas . .	3	2 from Bay		1	
504	Bull, Peter	14	1 E. Y'ge St.			

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the local Selectors for the municipalities in the County of , for the year 19 , as such Reports remained with me as Clerk of the Peace on the 25th day of October in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all

persons so selected and reported as competent, qualified and liable to serve as Grand Jurors for such county in the Supreme Court.

Witness my hand this _____ day of _____, 19____,
E. F., Clerk of the Peace.

2.—THE GRAND JURY LIST

FOR the Supreme Court of Ontario (*see note 2*), as selected for the County
of _____ by the County Selectors, on _____, the
_____ day of _____, 19____, pursuant to the directions of
The Jurors Act.

No. on list	NAMES	No. of Lot or House, as in Jurors' Roll	Concession or Street, or Village or Ham- let, as in Jurors' Roll	Municipality	Occupations	No. on Roll	No. of Panel	Remarks to be filled in by Sheriff, see s. 101.
1	Arthur, Thomas..	3	2 From Bay	York		503	1	
2	Bolland, George..	5	12	Mark- ham	Gentleman	22	1	
3	Yates, Edward... (<i>Etc., to, say</i>)	7	8	King	Tailor	20		
144	Young, David....	1	5	Mark- ham		32	1	

These are to certify that on _____, the _____ day of _____, 19____, the foregoing Grand Jury List for the
County of _____ for the Supreme Court for the year 19____,
was duly selected from the Roll of Grand Jurors to serve in the Supreme
Court for the same year, pursuant to the directions of *The Jurors Act*.
Witness our hands this _____ day of _____, 19____.
C. D., Chairman,
E. F., Clerk of the Peace.

3.—GRAND JURY PANELS FOR THE SUPREME COURT OF ONTARIO (*See note 2*)

No. 1.

PANEL of Grand Jurors returned upon a Precept from the Honourable
G. H., the Honourable I. J., (etc.) Her Majesty's Justices in that
behalf, tested the _____ day of _____, 19____, for
the return of thirteen of such Jurors for the sittings of the Supreme
Court to be held for the County of _____, on the
_____ day of _____, 19____, as drafted on _____, the
_____ day of _____, 19____, at the office of the
Clerk of the Peace in _____, by A.B., Esquire, Sheriff, in
the presence of K. L. and M. N. Esquires, Justices of the Peace
for the County, pursuant to the directions of *The Jurors Act*.

No. on Panel	NAMES	No. of Lot or House	Concession or Street, or Village or Ham- let	Municipality	Occupations	No. on Lists	Remarks
1	Arthur, Thomas	3	2 From Bay	York	Farmer	1	
2	Bolland, George (<i>Etc., to, say</i>)	5	12	Mark- ham	Gentleman	2	
24	Yates, Edward.	1	5	Mark- ham	Farmer	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J.P.

M. N., J.P.

No. 2. (*See Note 4*), etc.

4.—ROLL OF GRAND JURORS

To serve in Her Majesty's Inferior Courts (*see note 2*)
of Criminal Jurisdiction. (*See note 3*)

(*Continue as in Form 1, substituting in
the certificate for the words "Supreme
Court" the words "Inferior Courts of
Criminal Jurisdiction"*)

Witness my hand this day of , 19 .
E. F., Clerk of the Peace.

5.—THE GRAND JURY LIST

FOR the Inferior Courts (*see note 2*), as selected by the
County Selectors, for the County of ,
on , the day of , 19 ,
pursuant to the directions of *The Jurors Act*.

(*Continue as in Form 2, substituting in
the certificate for the words "Supreme
Court" the words "Inferior Courts of
Criminal Jurisdiction"*.)

Witness our hands this day of , 19 .
C. D., Chairman,
E. F., Clerk of the Peace.

6.—GRAND JURY PANELS FOR THE INFERIOR COURTS

(*See note 2*)

No. 1.

PANEL of Grand Jurors returned upon a Precept from the Presiding Judge
of the Court of General Sessions of the Peace for the County or
District of , tested the day of , 19 , for the
return of thirteen of such Jurors for the Sittings of the Court of
General Sessions of the Peace, to be held, etc.

(*Continue as in Form 3.*)

7.—ROLL OF PETIT JURORS

To serve in the Supreme Court of Ontario. (See notes 2 and 3)

No. on Roll	NAMES	No. of Lot or House	Concession or Street, or Village or Ham- let	Occupations	No. on List	Remarks to be filled in by Sheriff, see s. 76.
	1 KING (Township)					
1	Adams, George...	16	2	Farmer		
2	Aikins, William...	21	7		2	
3	Alley, Simon....	25	3			
4	Ashford, Thomas.	19	5		3	
5	Barclay, John....	5	5	Gentleman	1	
6	Cameron, William	11	7	Merchant	5	
7	Daniels, George..	9	2	Shoemaker	4	
8	Parley, Peter....	4	6			
9	Small, William...	22	11		6	
10	Worth, David.... (etc., to, say)	7	8	Tailor	7	
1060	Yarrold, George..	14		Baker	288	
	2 MARKHAM (Township) etc.)					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the local Selectors for the municipalities in the County of _____, for the year 19____, as such Reports remained with me as Clerk of the Peace on the 25th day of October of that year, and that such Petit Jurors' Roll contains true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors for such county in the Supreme Court.

Witness my hand this _____ day _____, 19____.
E. F., Clerk of the Peace.

8.—THE PETIT JURY LIST

FOR the Supreme Court of Ontario (*see note 2*), as selected for the county of _____ on _____, the _____ day of _____, 19____, pursuant to the directions of *The Jurors Act*.

No. on List	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	Residence	Occupations	No. on Roll	No of Panel	Remarks to be filled in by Sheriff, see s. 76.
1	Adams, George..	5	5	King	Gentleman	5		
2	Alley, Simon ...	21	7	King		2	1	
3	Ashford, Thomas	2	19	King		4		
4	Barclay, John...	19	8	King	Shoemaker	7		
5	Daniel, George...	9	5	King	Merchant	6		
6	Worth, David... (<i>etc., to, say</i>)	11	16	King		9		
188	Yarrold, George	14	9	King	Baker	1060	1	

These are to certify that on _____, the _____ day of _____, 19____, the foregoing Petit Jury List for the County of _____ for the Supreme Court for the year 19____, was duly selected from the Roll of Petit Jurors to serve in the Supreme Court for the same year, pursuant to the directions of *The Jurors Act*.

Witness our hands this _____ day of _____, 19____.
C. D., Chairman,
E. F., Clerk of the Peace.

9.—PETIT JURY PANELS

FOR the Supreme Court of Ontario. (*See note 2*)

No. 1.

PANEL of Petit Jurors returned upon a Precept from the Honourable G. H., the Honourable J.J., etc., Justices of the Supreme Court, tested the _____ day of _____, 19____, for the return of such Jurors, for the Sittings of the High Court of Justice (*or as the precept requires*) to be held for the County of _____ on _____, the _____ day of _____, 19____, as drafted on _____, the _____ day of _____, 19____, at the office of the Clerk of the Peace in _____, by A.B., Esquire, Sheriff, in the presence of K.L. and M.N., Esquires, Justices of the Peace for the County, pursuant to the directions of *The Jurors Act*.

No. of Panel	NAMES	No. of Lot or House	Concession or Street, or Village or Hamlet	Municipality	Occupations	No. on List	Remarks
1	Alley, Simon. . . (<i>etc., to, say</i>)	21	7	King	Merchant	2	
48	Yarrold, George	14	9	King	Baker	288	

Witness our hands the day and year last above written.

A. B., Sheriff.,
K. L., J.P.
M. N., J.P.

R.S.O. 1950, c. 191, Sched. B; 1952, c. 46, s. 5.

No. 2. (*See note 4.*)

NOTE.—The corresponding Forms for the Inferior Courts of Civil and Criminal Jurisdiction shall be, with appropriate changes, Forms 7 to 9.

NOTES TO FORMS IN SCHEDULES A AND B

- (1) *This Title to be placed at the head of each page of the Book.*
- (2) *So much of this Sub-Title as ends with this word to be placed at the head of each page of the Book appropriated to this class of entries.*
- (3) *This Roll to be commenced on a new page, after leaving a sufficient number of leaves for the Jury List to be selected from the preceding Roll and the probable number of Panels that may be drafted from such Lists in the course of the year.*
- (4) *The subsequent Panels following immediately may be commenced on the same page on which the preceding one is closed.*

SCHEDULE C
(Section 84)

PAY LIST for Petit Jurors who have attended the Sittings of the
case may be), held for the of , begun on the day of , 19 , and ended on the day
of , 19 . (as the day

NAME OF JURORS	Number of miles travelled in coming to Court	Check of Attendance								Amount to be paid to Juror		Juror's signature acknowledging receipt of money
		1st day	2nd day	3rd day	4th day	5th day	6th day	7th day	8th day	\$	cts.	
John Just.....	21	present	present	present	present	present	present	present	present			
Charles Careless.....	..	absent	absent	absent	absent	absent	absent	absent	absent			

I, , Sheriff of the of , do hereby certify to the Treasurer of the , that the above is to the best of my knowledge a correct return of the number of miles travelled by each Juror in coming to the Court, a true check of the number of days every such Juror attended the Court, and the just sum to which every Juror on the above list is entitled.

A. B., Sheriff.

R.S.O. 1950, c. 191, Sched. C.

SCHEDULE D

FORM 1

(Section 46)

In the Supreme Court of Ontario

Reigning Sovereign, etc.

Ontario

County (or District) of

To Wit:

To the Sheriff of the _____ of _____

You are commanded that you cause to come before the Judge or other person holding the sittings of the Supreme Court (or County or District Court or Court of General Sessions of the Peace) at _____ in your Bailiwick, on the _____ day of _____, 19____, all panels concerning such sittings (*and when the sittings are for the trial of criminal as well as civil cases*), and also cause to come thirteen good and lawful persons of your Bailiwick duly qualified to serve as Grand Jurors at the said sittings; and also summon a competent number, being not less than _____ good and lawful persons duly qualified to serve as Petit Jurors for the trial of (Criminal and) Civil issues; and that you and your deputy Sheriff, Bailiffs, and other officers then and there attend in your proper persons to do those things which to your and their offices appertain. And that you have then and there the names of all Jurors and Constables whom you shall cause to come before us. And have then and there this Precept.

Dated at _____ this _____ day of _____, 19____.

R.S.O. 1950, c. 191, Sched. D, Form 1; 1951, c. 41, s. 9 (1).

FORM 2

(Section 47 (2))

Take notice that there being no business requiring the attendance of petit jurors at the sittings of the Supreme Court (or County or District Court or Court of General Sessions of the Peace) on the opening day thereof to be held the _____ day of _____, 19____, your attendance as a juror on that day is not required, and in so far as the summons served upon you requires your attendance on that day it shall be disregarded.

Further take notice that you are required to attend the sittings of this court on the _____ day of _____, 19____, at the hour of _____ o'clock in the _____ noon.

And further take notice that in case you attend at such sittings on any day prior to that last above mentioned, you will not be entitled to any fees or mileage for such attendance.

Dated at _____ this _____ day of _____, 19____.

Sheriff of the County
(or District) of _____

R.S.O. 1950, c. 191, Sched. D, Form 2; 1951, c. 41, s. 10.

FORM 3

(Section 66 (1))

To

Take notice that you are required to attend the sittings of the Supreme Court (*or County or District Court or Court of General Sessions of the Peace*) to be held at _____, in the County (*or District*) of _____, on the _____ day of _____, 19____, as a Grand (*or Special or Petit*) Juror, and in default of your so attending you will be liable to the penalties provided by *The Jurors Act*.

Dated at _____ the _____ day of _____, 19____.

Sheriff of the County
(*or District*) of _____

R.S.O. 1950, c. 191, Sched. D, Form 3.

FORM 4

(Section 4)

NOTICE TO SHERIFF

To the Sheriff of the _____ of _____

Take notice that I, _____, being a woman, hereby claim exemption from service as a juror for a period of one year from the date of this notice.

Dated at _____ this _____ day of _____, 19____.

.....
Witness.....
Claimant

1951, c. 41, s. 9 (2).

FORM 5

(Section 66 (3))

To the Sheriff of the _____ of _____

Take notice that there is no (*civil or criminal, as the case may be*) business requiring the attendance of a jury at the ensuing sittings of the Supreme Court (*or the County or District Court*) to be held on the _____ day of _____, 19____, and that the attendance of jurors at such sittings is not required.

Dated at _____ this _____ day of _____, 19____.

Registrar (*or Local Registrar of the Supreme Court, Clerk of the County Court or Clerk of the Peace, as the case may be*) for the County *or District* of _____

R.S.O. 1950, c. 191, Sched. D, Form 4; 1951, c. 41, s. 10.

FORM 6

(Section 66 (5))

To

Take notice that there being no business requiring the attendance of jurors at the sittings of the Supreme Court (*or* the County *or* District Court) to be held on the _____ day of _____, 19____, your attendance as a juror at such sittings is not required, and the summons served upon you for your attendance is cancelled.

Further take notice that in case you attend at such sittings after the receipt by you of this notice you will not be entitled to any fees or mileage for such attendance.

This notice is given pursuant to *The Jurors Act*.

Dated at _____ this _____ day of _____, 19____.

Sheriff of the County
(*or* District) of _____

R.S.O. 1950, c. 191, Sched. D, Form 5; 1951, c. 41, s. 10.

CHAPTER 200

The Justices of the Peace Act

1. Every judge of the Supreme Court of Canada, of the Exchequer Court of Canada, of the Supreme Court of Ontario and every judge and junior judge of a county or district court is *ex officio* a justice of the peace for every part of Ontario and as such has power to do alone whatever is authorized to be done by two or more justices of the peace. 1952, c. 47, s. 1.

Justices
of the
peace
ex officio

2.—(1) Subject to subsection 2, the Lieutenant Governor by commission under the Great Seal pursuant to an order in council may appoint justices of the peace in and for Ontario or any part thereof.

Appoint-
ment

(2) A person, other than a barrister or solicitor, desirous of being appointed a justice of the peace shall be examined in regard to his qualifications for the office by the judge of the county or district court of the county or district in which he resides, or by such other person as is appointed in that behalf by the Lieutenant Governor in Council, and no such person shall be appointed a justice of the peace without a certificate from such judge or other person that he has examined the applicant and finds him qualified for the office and that in his opinion a justice of the peace is needed for the public convenience in matters pertaining to the administration of justice. 1952, c. 47, s. 2.

Examina-
tion as
to quali-
fications

3. All former general commissions of the peace are void upon the issue of a new general commission of the peace, but nothing in this Act prevents the re-appointment of any justice of the peace named in a former commission if the Lieutenant Governor in Council thinks fit, and the issue of a supplementary commission of the peace does not operate as a revocation of a general commission. 1952, c. 47, s. 3.

Effect of
new general
commission

4.—(1) A justice of the peace, before acting, shall take the following oath:

Oaths

I, A.B., of the of
in the County (or District) of do swear
that I will well and truly serve Her Majesty Queen Elizabeth
(or the reigning Sovereign for the time being) in the office of justice
of the peace, and I will do right to all manner of people according
to law, without fear or favour, affection or ill will. So help me God.

A.B.

Sworn before me, etc.

R.S.O. 1960,
c. 326

and also the oath of allegiance as required by *The Public Officers Act*.

Filing
oaths

(2) The oath of office and oath of allegiance shall be transmitted forthwith to the Inspector of Legal Offices and shall be filed in his office. 1952, c. 47, s. 4.

Power to
take
oaths

R.S.O. 1960,
c. 59

5. A justice of the peace has the same power to administer oaths, affirmations and declarations as a commissioner appointed under *The Commissioners for taking Affidavits Act*. 1952, c. 47, s. 5.

Use of
hall

6. A justice of the peace may use any court room or municipal hall for the hearing of cases brought before him, but not so as to interfere with its ordinary use. 1952, c. 47, s. 6.

Powers
of justices
of the
peace

7.—(1) A justice of the peace acting within his territorial jurisdiction,

(a) may take informations or issue search warrants, summonses or warrants returnable before a magistrate; and

(b) may hear and determine prosecutions under municipal by-laws.

Limitation
of power

(2) Except as provided in subsection 1, a justice of the peace shall not act in any case except under the direction of a magistrate. 1952, c. 47, s. 7.

Returns of
convictions,
etc.

8. Where a justice of the peace tries an offence,

(a) under a municipal by-law; or

(b) under the direction of a magistrate,

he shall make such returns as the Inspector of Legal Offices directs. 1952, c. 47, s. 8.

Fees

1953-54,
c. 51 (Can.)
R.S.O. 1960,
c. 387

9. In cases not provided for by the *Criminal Code* (Canada) or *The Summary Convictions Act*, the Lieutenant Governor in Council may prescribe the fees and allowances to be paid by a county, or, in the case of a provisional judicial district, by the Province, to a justice of the peace not receiving a salary. 1952, c. 47, s. 9.

Assignment
of justices of
the peace
to cities

10. The Lieutenant Governor in Council may assign any justice of the peace to a city and fix his salary which shall be paid by the city. 1952, c. 47, s. 10.

Dual
offices

11. Where a person who is a justice of the peace is employed on salary in any capacity connected with a magistrate's court, the authority that employs and pays him in such capa-

city may require him to pay over to it all or such portion as it determines of the fees collected by him as a justice of the peace, and, where his salary is paid out of the revenues of the magistrate's court, such fees or the portion thereof so determined shall be paid over by him to the magistrate and shall form part of the moneys that accrue to the treasurer of the municipality. 1952, c. 47, s. 11.

CHAPTER 201

The Juvenile and Family Courts Act

1. The Lieutenant Governor in Council may establish a juvenile and family court in and for, Establishment of courts

- (a) a county;
- (b) two or more counties;
- (c) a local municipality separated from the county for municipal purposes;
- (d) two or more local municipalities separated from the county for municipal purposes;
- (e) a combination of clause *a* and clause *c* or *d*;
- (f) a combination of clause *b* and clause *c* or *d*;
- (g) one or more provisional judicial districts or part or parts thereof. 1959, c. 49, s. 1.

2. A juvenile and family court is a court of record and shall be known as "The Juvenile and Family Court of Court of record, name
." as the Lieutenant Governor in Council designates. 1959, c. 49, s. 2.

3. A juvenile and family court,

Jurisdiction

- (a) is a juvenile court for the purpose of dealing with juvenile delinquents so soon as the *Juvenile Delinquents Act* (Canada) is proclaimed in force in the area for which it was established and it has all the powers vested in a juvenile court under that Act; R.S.C. 1952, c. 160
- (b) has power to try any child charged with an offence against the laws of Ontario; and
- (c) has power to deal with all cases where jurisdiction is conferred by any Act upon a juvenile court or a judge thereof or upon a juvenile and family court or a judge thereof. 1959, c. 49, s. 3.

4.—(1) The Lieutenant Governor in Council may appoint the judge of a juvenile and family court who shall hold office during good behaviour. Appointment of judge

Appoint-
ment of
deputy
judges

(2) The Lieutenant Governor in Council may appoint one or more deputy judges of a juvenile and family court, each of whom shall act as judge of the court. 1959, c. 49, s. 4 (1, 2).

Metro-
politan
Toronto

(3) Notwithstanding subsection 1, the Lieutenant Governor in Council may appoint two judges and one or more deputy judges for the Juvenile and Family Court of The Municipality of Metropolitan Toronto. 1959, c. 49, s. 22.

Salaries

(4) The Lieutenant Governor in Council shall fix the salaries of the judges and deputy judges of juvenile and family courts.

Retirement
age
R.S.O. 1960,
c. 331

(5) The provisions of *The Public Service Act* as to age of retirement of civil servants apply *mutatis mutandis* to judges and deputy judges of juvenile and family courts.

Acting
judge

(6) On evidence satisfactory to the Attorney General of the absence or illness of a judge or deputy judge or where the office of judge or deputy judge is vacant, the Attorney General may appoint any person to act *pro tempore* as judge and fix his remuneration. 1959, c. 49, s. 4 (3, 5).

Extended
jurisdiction

5. Every judge and deputy judge of a juvenile and family court is *ex officio* a judge or deputy judge, as the case may be, of every juvenile and family court and may sit and act in any such court as though he had been appointed to it. 1960, c. 53, s. 1.

Detention
and observa-
tion home

6.—(1) A detention and observation home may be established, maintained and operated as a part of a juvenile and family court.

Superin-
tendent

(2) Where a detention and observation home is established, the Attorney General may appoint a superintendent and an assistant superintendent of the home and fix their salaries.

Status

(3) The superintendent and assistant superintendent of a detention and observation home shall be deemed to be officers of the court of which the home is a part. 1959, c. 49, s. 5.

Detention
homes

R.S.C. 1952,
c. 160

7.—(1) The Attorney General may declare any place, house, home or institution a detention home within the meaning of the *Juvenile Delinquents Act* (Canada).

Duty to
provide
detention
home

(2) A municipality for which a juvenile and family court is established and in which there is no detention home, or in which there is no detention home of sufficient capacity, shall provide a detention home satisfactory to the Attorney General.

(3) The municipality for which a juvenile and family court is established is liable for the maintenance in a detention home of a child charged with committing an offence in that municipality. 1959, c. 49, s. 6. Main-
tenance
of child in
detention
home

8.—(1) A diagnostic clinic may be established, maintained and operated as part of the juvenile and family court of any municipality that has a population of not less than 500,000. Diagnostic
clinic

(2) Where a diagnostic clinic is established, the Attorney General may appoint such professional persons for the purposes of the clinic as he deems appropriate and fix their salaries. Professional
persons

(3) The persons appointed under subsection 2 shall be deemed to be officers of the court of which the clinic forms a part. 1959, c. 49, s. 7. Status

9. The Attorney General may appoint an executive officer for the juvenile and family court of any municipality having a population of not less than 500,000 and fix his salary. 1959, c. 49, s. 8. Executive
officer

10. The Attorney General shall appoint a clerk for a juvenile and family court and fix his salary. 1959, c. 49, s. 9. Clerk

11.—(1) The Attorney General may appoint a chief probation officer, one or more supervisory probation officers and one or more probation officers for a juvenile and family court and fix their salaries. Appoint-
ment of
probation
officers

(2) Every probation officer while acting in the discharge of his duties has all the powers of a police constable. 1959, c. 49, s. 10. Powers

12. The Attorney General may appoint one or more court reporters for a juvenile and family court and fix their salaries. 1959, c. 49, s. 11. Court
reporters

13. The Attorney General may appoint stenographers, typists, clerks and other persons to the staff of a juvenile and family court and fix their salaries. 1959, c. 49, s. 12. Staff

14. All officers and members of the staff of a juvenile and family court, except the judge and deputy judges, shall be deemed to be employees of the municipality that pays their salaries for the purposes of pensions, sick leave credits, holidays with pay, and the Ontario plan of hospital care insurance. 1959, c. 49, s. 13. Status of
officers
and staff

Control of
officers
and staff

15. The officers and members of the staff of a juvenile and family court shall act in accordance with the directions of the judge of the court. 1959, c. 49, s. 14.

Accommo-
dation and
expenses

16.—(1) The municipality in and for which a juvenile and family court is established shall provide a suitable room for hearing cases and offices, furniture, equipment and supplies for the judge, deputy judges and all other officers and the members of the staff and shall make provision for and pay the expenses of the court including the salaries of the judge, deputy judges and all other officers and the members of the staff.

Payment of
salaries of
full-time
judges

(2) The salary of every full-time judge and every full-time deputy judge shall be paid out of the moneys that are voted therefor by the Legislature and an amount equal to the salary and any other allowance paid in the first instance by the Province shall be paid quarterly to the Treasurer of Ontario by the municipality or municipalities that would, but for this subsection, be responsible for the payment of such salaries. 1959, c. 49, s. 15.

Apportion-
ment of
cost of
court

17.—(1) Where a juvenile and family court is established in and for two or more municipalities, the municipalities served by the court shall pay such proportion of the cost of the court as is agreed upon, or, failing agreement, as is determined by arbitration.

Arbitra-
tion

(2) For the purposes of an arbitration under subsection 1, a judge of a county court of a county, other than a county concerned in the proceedings, shall be sole arbitrator and the provisions of *The Municipal Arbitrations Act* as to procedure and appeals apply to every such arbitration and to the award. 1959, c. 49, s. 16.

R.S.O. 1960,
c. 250

Apportion-
ment of
cost in
districts

18. Where a juvenile and family court is established in and for a provisional judicial district or part thereof and it serves a municipality in such district or part, the Lieutenant Governor in Council may fix the amount to be paid by such municipality towards the cost of the court and prescribe the times and manner of making the payments. 1959, c. 49, s. 17.

Provincial
aid

19. The Lieutenant Governor in Council may direct payment out of the moneys that are voted for the purpose by the Legislature to any municipality of such portion of the cost to it of a juvenile and family court as he determines. 1959, c. 49, s. 18.

Supreme
Court
alimony
and main-
tenance
orders

20.—(1) A person entitled to alimony or maintenance under a judgment or order of the Supreme Court may file a copy of the judgment or order in the juvenile and family court having jurisdiction where the person ordered to pay

the alimony or maintenance resides, and, when so filed, it shall be enforced in the same manner as an order made in that court under *The Deserted Wives' and Children's Maintenance Act*. R.S.O. 1960, c. 105

(2) A person entitled to maintenance under a judgment or order of the Supreme Court within the meaning of subsection 1 includes a child entitled to maintenance under the judgment or order. 1959, c. 49, s. 19. Interpretation

21. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the functions of and providing for the management of detention and observation homes, detention homes, and diagnostic clinics under this Act;
 - (b) prescribing the duties of the officers and the members of the staffs of juvenile and family courts or of any class of such officers or members;
 - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1959, c. 49, s. 20.
-

CHAPTER 202

The Labour Relations Act**1.—(1)** In this Act,Interpre-
tation

- (a) “bargaining unit” means a unit of employees appropriate for collective bargaining, whether it is an employer unit or a plant unit or a subdivision of either of them;
- (b) “Board” means the Ontario Labour Relations Board;
- (c) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees;
- (d) “conciliation services” means the services of a conciliation officer and, if necessary, a conciliation board;
- (e) “council of trade unions” includes an allied council, a trades council, a joint board and any other association of trade unions;
- (f) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (g) “lock-out” includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees, with a view to compel or induce his employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, an employers’ organization, the trade union, or the employees;

- (h) "Minister" means the Minister of Labour;
- (i) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or limit output;
- (j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union. R.S.O. 1950, c. 194, s. 1 (1); 1954, c. 42, s. 1; 1957, c. 57, s. 1 (1, 2).

Idem

(2) For the purposes of this Act, no person shall be deemed to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lock-out or strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement. R.S.O. 1950, c. 194, s. 1 (2).

Idem

(3) For the purposes of this Act, no person shall be deemed to be an employee,

- (a) who is a member of the architectural, dental, engineering, legal or medical profession entitled to practise in Ontario and employed in a professional capacity; or
- (b) who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations. R.S.O. 1950, c. 194, s. 1 (3); 1957, c. 57, s. 1 (3).

APPLICATION OF ACT

Where Act
not to
apply**2.** This Act does not apply,

- (a) to a domestic employed in a private home;
- (b) to a person employed in agriculture, hunting or trapping;
- (c) to a person, other than an employee of a municipality or a person employed in silvaculture, who is employed in horticulture by an employer whose primary business is agriculture or horticulture;
- (d) to a member of a police force within the meaning of *The Police Act*;

R.S.O. 1960,
c. 298

- (e) to a full-time fire fighter within the meaning of *The Fire Departments Act*; or R.S.O. 1960, c. 145
- (f) to a teacher as defined in *The Teaching Profession Act*. R.S.O. 1960, c. 393
R.S.O. 1950, c. 194, s. 2; 1960, c. 54, s. 1.

FREEDOMS

3. Every person is free to join a trade union of his own choice and to participate in its lawful activities. Membership in trade union
R.S.O. 1950, c. 194, s. 3.

4. Every person is free to join an employers' organization of his own choice and to participate in its lawful activities. Membership in employers' organization
R.S.O. 1950, c. 194, s. 4.

ESTABLISHMENT OF BARGAINING RIGHTS BY CERTIFICATION

5.—(1) Where no trade union has been certified as bargaining agent of the employees of an employer in a unit that a trade union claims to be appropriate for collective bargaining and the employees in the unit are not bound by a collective agreement, a trade union may, subject to section 46, apply at any time to the Board for certification as bargaining agent of the employees in the unit. Application for certification

(2) Where a collective agreement is for a term of not more than two years, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the last two months of its operation. Idem

(3) Where a collective agreement is for a term of more than two years, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be. Idem

(4) Where a collective agreement referred to in subsection 2 or 3 provides that it will continue to operate for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agree- Idem

ment during the further term or successive terms only during the last two months of each year that it so continues to operate, or after the commencement of the last two months of its operation, as the case may be. 1960, c. 54, s. 2.

Board to
determine
appropriateness of
units

6.—(1) Upon an application for certification, the Board shall determine the unit of employees that is appropriate for collective bargaining, but in every case the unit shall consist of more than one employee and the Board may, before determining the unit, conduct a vote of any of the employees of the employer for the purpose of ascertaining the wishes of the employees as to the appropriateness of the unit. R.S.O. 1950, c. 194, s. 6 (1); 1954, c. 42, s. 2 (1).

Craft units

(2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or craft shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made. R.S.O. 1950, c. 194, s. 6 (2); 1954, c. 42, s. 2 (2); 1960, c. 54, s. 3.

Determina-
tion of
number of
members in
bargaining
unit

7.—(1) Upon an application for certification, the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and the number of employees in the unit who were members of the trade union at such time as is determined under clause *j* of subsection 2 of section 77. 1960, c. 54, s. 4 (1).

Representa-
tion vote

(2) If the Board is satisfied that not less than 45 per cent and not more than 55 per cent of the employees in the bargaining unit are members of the trade union, the Board shall, and if the Board is satisfied that more than 55 per cent of such employees are members of the trade union, the Board may direct that a representation vote be taken. R.S.O. 1950, c. 194, s. 7 (2); 1960, c. 54, s. 4 (2).

Certification
after vote

(3) If on the taking of a representation vote more than 50 per cent of the ballots of all those eligible to vote are cast in favour of the trade union, and in other cases, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade union, the Board

shall certify the trade union as the bargaining agent of the employees in the bargaining unit.

(4) In determining the number of eligible voters for the purpose of subsection 3, employees who are absent from work during voting hours and who do not cast their ballots shall not be counted as eligible. R.S.O. 1950, c. 194, s. 7 (3, 4). ^{Absent employees}

(5) If the Board is satisfied that more than 50 per cent of the employees in the bargaining unit are members of the trade union and that the true wishes of the employees are not likely to be disclosed by a representation vote, the Board may certify the trade union as bargaining agent without taking a representation vote. R.S.O. 1950, c. 194, s. 7 (5), *revised*. ^{Certification without vote}

8.—(1) Upon an application for certification, the trade union may request that a pre-hearing representation vote be taken. ^{Pre-hearing votes}

(2) Upon such a request being made, the Board may determine a voting constituency and, if it appears to the Board on an examination of the records of the trade union and the records of the employer that not less than 45 per cent of the employees in the voting constituency were members of the trade union at the time the application was made, the Board may direct that a representation vote be taken among the employees in the voting constituency. ^{Voting constituency}

(3) The Board may direct that the ballot box containing the ballots cast in a representation vote taken under subsection 2 shall be sealed and that the ballots shall not be counted until the parties have been given full opportunity to present their evidence and make their submissions. ^{Sealing of ballot box}

(4) After a representation vote has been taken under subsection 2, the Board shall determine the unit of employees that is appropriate for collective bargaining and, if it is satisfied that not less than 45 per cent of the employees in such bargaining unit were members of the trade union at the time the application was made, the representation vote taken under subsection 2 has the same effect as a representation vote taken under subsection 2 of section 7. 1960, c. 54, s. 5. ^{Effect of pre-hearing vote}

9. The Board shall not include in a bargaining unit with other employees a person employed as a guard to protect the property of his employer and no trade union shall be certified as bargaining agent for a bargaining unit of such guards and no employer or employers' organization shall be required to bargain with a trade union on behalf of any person employed as a guard if, in either case, the trade union admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than such guards. R.S.O. 1950, c. 194, s. 8; 1954, c. 42, s. 3. ^{Security guards}

What
unions not
to be
certified

10. The Board shall not certify a trade union if any employer or any employers' organization has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1950, c. 194, s. 9; 1960, c. 54, s. 6.

NEGOTIATION OF COLLECTIVE AGREEMENTS

Notice of
desire to
bargain

11. Following certification, the trade union shall give the employer written notice of its desire to bargain with a view to making a collective agreement. R.S.O. 1950, c. 194, s. 10.

Obligation
to bargain

12. The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. R.S.O. 1950, c. 194, s. 11; 1954, c. 42, s. 4.

Request for
conciliation
services

13.—(1) Either party may file with the Board a request that conciliation services be made available to the parties.

Where
request
may be
granted

(2) Where thirty-five or more days have elapsed from the giving of the notice under section 11 or 40 or upon the joint request of the parties or where the Board is satisfied that no progress in bargaining is being made, the Board shall grant the request, but before doing so it may postpone the granting of the request from time to time to a specified date and direct the parties to continue to bargain in the meantime.

Idem

(3) Where the parties have met and bargained, the Board may grant the request for conciliation services notwithstanding the failure of the trade union to give written notice under section 11 or the failure of either party to give written notice under section 40.

Where
request may
be denied

(4) The Board may deny the request where during bargaining the trade union has not been represented by a bargaining committee.

Composition
of bar-
gaining
committee

(5) A bargaining committee,

- (a) shall consist of employees of the employer who are in the bargaining unit; or
- (b) in the case of bargaining between a trade union and an employers' organization, shall consist of employees of one or more members of such organization who are in the bargaining unit; or
- (c) in the case of bargaining between a trade union and a group of employers bargaining jointly or through

representatives of such employers, shall consist of employees of one or more of the employers in such group who are in the bargaining unit; or

- (d) in the case of bargaining between a council of trade unions and an employer, an employers' organization or a group of employers bargaining jointly, shall consist of employees of the employer or of one or more members of such organization or of one or more of the employers in such group, as the case may be, who are in the bargaining unit,

and in any case a bargaining committee may include one or more officers or other representatives of the trade union.

(6) Notwithstanding subsection 5, where a bargaining unit ^{Idem} consists of not more than fifteen employees, the bargaining committee may consist of one of such employees. 1960, c. 54, s. 7.

14. Where the Board grants a request for conciliation services, the Minister shall forthwith appoint a conciliation officer or, upon the joint request of the parties in writing, he may appoint a mediator selected by them jointly. R.S.O. 1950, c. 194, s. 14 (1); 1960, c. 54, s. 8 (1). ^{Appointment of conciliation officer or mediator}

15.—(1) Where a conciliation officer is appointed, he shall ^{Duties} confer with the parties and endeavour to effect a collective agreement and he shall, within fourteen days from his appointment, report the result of his endeavour to the Minister. R.S.O. 1950, c. 194, s. 14 (2); 1960, c. 54, s. 8 (2).

(2) The period mentioned in subsection 1 may be extended ^{Extension of 14-day period} by agreement of the parties or by the Minister upon the advice of the conciliation officer that a collective agreement may be made within a reasonable time if the period is extended. R.S.O. 1950, c. 194, s. 14 (3).

16. If the conciliation officer is unable to effect a collective agreement within the time allowed under section 15, ^{Conciliation board, appointment of members}

- (a) the Minister shall forthwith by notice in writing request each of the parties, within five days of the receipt of the notice, to recommend one person to be a member of a conciliation board, and upon the receipt of the recommendations or upon the expiration of the five-day period he shall appoint two members who in his opinion represent the points of view of the respective parties, and the two members so appointed may, within three days after they are appointed, jointly recommend a third person to be a member

and chairman of the board, and upon the receipt of the recommendation or upon the expiration of the three-day period, he shall appoint a third person to be a member and chairman of the board; or

- (b) the Minister shall forthwith by notice in writing inform each of the parties that he does not deem it advisable to appoint a conciliation board. 1954, c. 42, s. 7.

Certain
persons
prohibited
as members

17. No person shall act as a member of a conciliation board who has any pecuniary interest in the matters coming before it or who is acting, or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties. R.S.O. 1950, c. 194, s. 16.

Notice to
parties of
appointment

18.—(1) When the members of the conciliation board have been appointed, the Minister shall forthwith give notice of their names to the parties and thereupon the board shall be deemed to have been established.

Presumption
of establish-
ment

(2) When notice under subsection 1 has been given, it shall be presumed conclusively that the conciliation board has been established in accordance with this Act, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question the establishment of the conciliation board or the appointment of any of its members, or to review, prohibit or restrain any of its proceedings. R.S.O. 1950, c. 194, s. 17.

Vacancies

19.—(1) If a person ceases to be a member of a conciliation board by reason of his resignation or death before it has completed its work, the Minister shall appoint a member in his place after consulting the party whose point of view was represented by such person. R.S.O. 1950, c. 194, s. 18.

Appoint-
ment of
new member
in place
of member

(2) If in the opinion of the Minister a member of a conciliation board has failed to enter on his duties so as to enable it to report to the Minister within a reasonable time after its appointment, the Minister may appoint a member in his place after consulting the party whose point of view was represented by such person.

Appoint-
ment of
new
chairman

(3) If the chairman of a conciliation board is unable to enter on his duties so as to enable it to report to the Minister within a reasonable time after its appointment, he shall advise the Minister of his inability and the Minister may appoint a person to act as chairman in his place. 1960, c. 54, s. 9.

20. As soon as a conciliation board has been established, ^{Terms of reference} the Minister shall deliver to its chairman a statement of the matters referred to it and the Minister may, either before or after its report is made, amend or add to the statement. R.S.O. 1950, c. 194, s. 19.

21. Each member of a conciliation board shall, before ^{Oath of office} entering upon his duties, take and subscribe before a person authorized to administer oaths, and file with the Minister, an oath in the following form:

I do solemnly swear that I am not disqualified under section 17 of *The Labour Relations Act*, from acting as a member of a conciliation board and that I will faithfully, truly and impartially, to the best of my knowledge, skill and ability, execute and perform the office of member (or chairman) of the conciliation board established to.....

..... and that I will not, except as I am legally authorized, disclose to any person any of the evidence or other matter brought before the board. So help me God.

R.S.O. 1950, c. 194, 20.

22. As soon as a conciliation board is established, it shall ^{Duties} endeavour to effect agreement between the parties on the matters referred to it. R.S.O. 1950, c. 194, s. 21.

23.—(1) Subject to this Act, a conciliation board shall ^{Procedure} determine its own procedure.

(2) A conciliation board shall give full opportunity to the ^{Presentation of evidence} parties to present their evidence and make their submissions. R.S.O. 1950, c. 194, s. 22.

24. The chairman of a conciliation board shall, after con- ^{Sittings} sultation with the other members of the board, fix the time and place of its sittings, and he shall notify the parties and the other members of the board of the time and place so fixed. R.S.O. 1950, c. 194, s. 23.

25. The chairman of a conciliation board shall in writing, ^{Minister to be informed of first sitting} immediately upon the conclusion of its first sitting, inform the Minister of the date on which the sitting was held. 1960, c. 54, s. 10.

26. The chairman and one other member of a conciliation ^{Quorum} board constitutes a quorum, but, in the absence of a member, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting. R.S.O. 1950, c. 194, s. 24.

27. If the members of a conciliation board are unable to ^{Casting vote} agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs. R.S.O. 1950, c. 194, s. 25.

Powers

28. A conciliation board has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the board deems requisite to the full investigation and consideration of the matters referred to it in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as it in its discretion deems proper, whether admissible in a court of law or not;
- (d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the matters referred to the board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such matters;
- (e) to authorize any person to do anything that the board may do under clause *d* and to report to the board thereon. R.S.O. 1950, c. 194, s. 26.

When
report to
be made

29.—(1) A conciliation board shall report its findings and recommendations to the Minister within thirty days after its first sitting.

Extension
of period

- (2) The period mentioned in subsection 1 may be extended,
 - (a) by agreement of the parties for such further period, not exceeding ninety days except with the consent of the Minister, as they deem desirable; or
 - (b) by the Minister at the request of the chairman of the conciliation board for such further period, not exceeding thirty days, as the chairman deems desirable.

Report

(3) The report of the majority constitutes the report of the conciliation board, but, where there is no majority agreement or where the board is unable to report within the time allowed under subsection 1 or 2, the chairman shall notify the Minister in writing that there has been no agreement or that the board is unable to report, as the case may be, and in either of such cases the notification constitutes the report of the board. 1960, c. 54, s. 11 (1).

Clarification
etc., of
report

(4) After a conciliation board has made its report, the Minister may direct it to clarify or amplify any part of its

report, and the report shall not be deemed to have been received by the Minister until it has been so clarified or amplified. R.S.O. 1950, c. 194, s. 27 (3).

(5) On receipt of the report of the conciliation board or the mediator, the Minister shall forthwith release a copy thereof to each of the parties. 1960, c. 54, s. 11 (2). Copies of reports to parties

30.—(1) Where a mediator is appointed, he shall confer with the parties and endeavour to effect a collective agreement. Duty of mediator

(2) A mediator has all the powers of a conciliation board under section 28. Powers

(3) Sections 25 and 29 apply *mutatis mutandis* to a mediator. Sections 25 and 29 apply

(4) The report of a mediator has the same effect as the report of a conciliation board. Report

(5) The remuneration and expenses of a mediator shall be borne equally by the parties. 1960, c. 54, s. 12. Remuneration

31. Failure of a conciliation officer to report to the Minister within the time provided in this Act does not invalidate the proceedings of the conciliation officer. R.S.O. 1950, c. 194, s. 29; 1960, c. 54, s. 13. Failure to report

CONTENTS OF COLLECTIVE AGREEMENTS

32.—(1) Every collective agreement shall provide that the trade union that is a party thereto is recognized as the exclusive bargaining agent of the employees in the bargaining unit defined therein. Recognition provision

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it may be added to the agreement at any time by the Board upon the application of either party. R.S.O. 1950, c. 194, s. 30, *amended*. Addition by Board

33.—(1) Every collective agreement shall provide that there will be no strikes or lock-outs so long as the agreement continues to operate. Provision against strikes and lock-outs

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it may be added to the agreement at any time by the Board upon the application of either party. R.S.O. 1950, c. 194, s. 31, *amended*. Addition by Board

34.—(1) Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the Arbitration provision

interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable.

Idem

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it shall be deemed to contain the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party. The arbitration board shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee affected by it. The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs.

Where arbitration provision inadequate

(3) If, in the opinion of the Board, any part of the arbitration provision, including the method of appointment of the arbitrator or arbitration board, is inadequate, or if the provision set out in subsection 2 is alleged by either party to be unsuitable, the Board may, on the request of either party, modify the provision so long as it conforms with subsection 1, but, until so modified, the arbitration provision in the collective agreement or in subsection 2, as the case may be, applies. R.S.O. 1950, c. 194, s. 32 (1-3).

Appointment of arbitrator by Minister

(4) Notwithstanding subsection 3, if there is failure to appoint an arbitrator or to constitute a board of arbitration under a collective agreement, the Minister, upon the request of either party, may appoint the arbitrator or make such appointments as are necessary to constitute the board of arbitration, as the case may be, and any person so appointed by the Minister shall be deemed to have been appointed in accordance with the collective agreement. 1954, c. 42, s. 8 (1).

Reference of questions

(5) Where a request is made under subsection 4 and the question arises as to whether a collective agreement has been made or as to whether it is in operation or as to who the parties are or who are bound by it or on whose behalf it is made, the Minister may refer the question to the Board, and thereupon the question shall be deemed to be a question arising in a proceeding under subsection 1 of section 79. 1958, c. 47, s. 1.

(6) Where a difference has been submitted to arbitration under this section and a party to the arbitration complains to the Minister that the arbitrator or the arbitration board, as the case may be, has failed to render a decision within a reasonable time, the Minister may, after consulting the parties and the arbitrator or the arbitration board, issue whatever order he deems necessary in the circumstances to ensure that a decision will be rendered in the matter without further undue delay.

Where
decision of
arbitrator
unduly
delayed

(7) An arbitrator or the chairman of an arbitration board, as the case may be, has power,

Powers of
arbitrators,
chairmen of
arbitration
boards, and
arbitration
boards

(a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases; and

(b) to administer oaths,

and an arbitrator or an arbitration board, as the case may be, has power,

(c) to accept such oral or written evidence as the arbitrator or the arbitration board, as the case may be, in its discretion deems proper, whether admissible in a court of law or not;

(d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or it, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences;

(e) to authorize any person to do anything that the arbitrator or arbitration board may do under clause *d* and to report to the arbitrator or the arbitration board thereon. 1960, c. 54, s. 14, *part*.

(8) The decision of an arbitrator or of an arbitration board is binding,

Effect of
arbitrator's
decision

(a) upon the parties; and

(b) in the case of a collective agreement between a trade union and an employers' organization, upon the employers covered by the agreement who are affected by the decision; and

(c) in the case of a collective agreement between a council of trade unions and an employer or an employers' organization, upon the members or affiliates of the

council and the employer or the employers covered by the agreement, as the case may be, who are affected by the decision; and

- (d) upon the employees covered by the agreement who are affected by the decision,

and such parties, employers, trade unions and employees shall do or abstain from doing anything required of them by the decision. 1954, c. 42, s. 8 (2).

Enforce-
ment of
arbitration
decisions

(9) Where a party, employer, trade union or employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any party, employer, trade union or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1960, c. 54, s. 14, *part*.

R.S.O. 1960,
c. 18 does
not apply

(10) *The Arbitrations Act* does not apply to arbitrations under collective agreements. R.S.O. 1950, c. 194, s. 32 (5).

Permissive
provisions

35.—(1) Notwithstanding anything in this Act, but subject to subsection 4, the parties to a collective agreement may include in it provisions,

- (a) for requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement or granting a preference of employment to members of the trade union, or requiring the payment of dues or contributions to the trade union;
- (b) for permitting an employee who represents the trade union that is a party to or is bound by the agreement to attend to the business of the trade union during working hours without deduction of the time so occupied in the computation of the time worked for the employer and without deduction of wages in respect of the time so occupied;
- (c) for permitting the trade union that is a party to or is bound by the agreement to use the employer's premises for the purposes of the trade union without payment therefor. R.S.O. 1950, c. 194, s. 33 (1); 1954, c. 42, s. 9; 1960, c. 54, s. 15 (1).

(2) No employer shall discharge an employee,

Where
employee
may not be
discharged

- (a) who has been expelled or suspended from membership in the trade union mentioned in clause *a* of subsection 1; or
- (b) to or from whom membership in the trade union mentioned in clause *a* of subsection 1 has been denied or withheld,

because he was or is a member in another trade union or has engaged in activity against the trade union mentioned in clause *a* of subsection 1 or on behalf of another trade union.

(3) Subsection 2 does not apply to an employee who has engaged in unlawful activity against the trade union mentioned in clause *a* of subsection 1 or an officer, official or agent thereof or whose activity against the trade union or on behalf of another trade union has been instigated or procured by his employer or any person acting on his employer's behalf or whose employer or a person acting on his employer's behalf has participated in such activity or contributed financial or other support to the employee in respect of such activity.

Where
subs. 2
does not
apply

(4) A trade union and the employer of the employees concerned shall not enter into a collective agreement that includes provisions requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement unless the trade union has established at the time it entered into the agreement that not less than 55 per cent of the employees in the bargaining unit were members of the trade union, but this subsection does not apply,

Union
security
provision
in first
agreement

- (a) where the trade union has been certified as the bargaining agent of the employees of the employer in the bargaining unit; or
- (b) where the trade union has been a party to or bound by a collective agreement with the employer for at least one year; or
- (c) where the employer becomes a member of an employers' organization that has entered into a collective agreement with the trade union or council of trade unions containing such a provision and agrees with the trade union or council of trade unions to be bound by such agreement; or
- (d) where the employer and his employees in the bargaining unit are engaged in the construction, alteration, decoration, repair or demolition of a building, structure, road, sewer, water or gas main, pipe line, tunnel, bridge, canal, or other work at the site thereof. 1960, c. 54, s. 15 (2).

OPERATION OF COLLECTIVE AGREEMENTS

Certain agreements not to be treated as collective agreements

36. An agreement between an employer or an employers' organization and a trade union shall be deemed not to be a collective agreement for the purposes of this Act,

- (a) if an employer or an employers' organization participated in the formation or administration of the trade union or if an employer or an employers' organization contributed financial or other support to the trade union; or
- (b) if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1950, c. 194, s. 34; 1960, c. 54, s. 16.

Binding effect of collective agreements on employers, trade unions, and employees

37. A collective agreement is, subject to and for the purposes of this Act, binding upon the employer and upon the trade union that is a party to the agreement whether or not the trade union is certified and upon the employees in the bargaining unit defined in the agreement. R.S.O. 1950, c. 194, s. 35, *amended*.

Binding effect of collective agreements on members of employers' organizations

38.—(1) A collective agreement between an employers' organization and a trade union is, subject to and for the purposes of this Act, binding upon each person who was a member of the employers' organization at the time the agreement was entered into and on whose behalf the employers' organization bargained with the trade union as if it was made between each of such persons and the trade union, and if any such person ceases to be a member of the employers' organization during the term of operation of the agreement, he shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union.

Duty to disclose

(2) When an employers' organization commences to bargain with a trade union, it shall deliver to the trade union a list of the names of the employers on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members of the employers' organization for whose employees the trade union is entitled to bargain and to make a collective agreement at that time, except an employer who, either by himself or through the employers' organization, has notified the trade union in writing before the agreement was entered into that he will not be bound by a collective agreement between the employers' organization and the trade union.

Binding effect of collective agreements on members or affiliates of councils of trade unions

(3) A collective agreement between a council of trade unions and an employer or an employers' organization is, subject to and for the purposes of this Act, binding upon each trade union that was a member of or affiliated with the council of trade unions at the time the agreement was entered into and on

whose behalf the council of trade unions bargained with the employer or employers' organization as if it was made between each of such trade unions and the employer or employers' organization, and if any such trade union ceases to be a member of or affiliated with the council of trade unions during the term of operation of the agreement, it shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the employer or employers' organization, as the case may be.

(4) Where a council of trade unions commences to bargain with an employer or an employers' organization, it shall deliver to the employer or employers' organization a list of the names of the trade unions on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members or affiliates of the council of trade unions for whose employees the respective trade unions are entitled to bargain and to make a collective agreement at that time with the employer or the employers' organization, except a trade union that, either by itself or through the council of trade unions, has notified the employer or employers' organization in writing before the agreement is entered into that it will not be bound by a collective agreement between the council of trade unions and the employer or employers' organization. 1954, c. 42, s. 10. Duty to disclose

39.—(1) If a collective agreement does not provide for its term of operation or provides for its operation for an unspecified term or for a term of less than one year, it shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate. R.S.O. 1950, c. 194, s. 37 (1), *amended*. Minimum term of collective agreements

(2) Notwithstanding subsection 1, the parties may, before or after a collective agreement has ceased to operate, agree to continue its operation or any of its provisions for a period of less than one year while they are bargaining for its renewal, with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit. Extension of term of collective agreements

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Board on the joint application of the parties. R.S.O. 1950, c. 194, s. 37 (2, 3). Early termination of collective agreements

(4) Notwithstanding anything in this section, where an employer joins an employers' organization that is a party to a collective agreement with a trade union or council of trade Idem

unions and he agrees with the trade union or council of trade unions to be bound by the collective agreement between the trade union or council of trade unions and the employers' organization, the agreement ceases to be binding upon the employer and the trade union or council of trade unions at the same time as the agreement between the employers' organization and the trade union or council of trade unions ceases to be binding. 1960, c. 54, s. 17.

Revision
by mutual
consent

(5) Nothing in this section prevents the revision by mutual consent of the parties at any time of any provision of a collective agreement other than a provision relating to its term of operation. R.S.O. 1950, c. 194, s. 37 (4).

Notice of
desire to
bargain
for new
collective
agreement

40.—(1) Either party to a collective agreement may, within the period of two months before the agreement ceases to operate, give notice in writing to the other party of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement. R.S.O. 1950, c. 194, s. 38 (1), *amended*.

Idem

(2) A notice given by a party to a collective agreement in accordance with provisions in the agreement relating to its termination or renewal shall be deemed to comply with subsection 1. R.S.O. 1950, c. 194, s. 38 (2).

Notice of
desire for
new
collective
agreement
for
employers'
organization

(3) Where notice is given by or to an employers' organization that has a collective agreement with a trade union or council of trade unions, it shall be deemed to be a notice given by or to each member of the employers' organization who is bound by the agreement or who has ceased to be a member of the employers' organization but has not notified the trade union or council of trade unions in writing that he has ceased to be a member. R.S.O. 1950, c. 194, s. 38 (3); 1954, c. 42, s. 11 (1); 1960, c. 54, s. 18 (1).

Idem

(4) Where notice is given by or to a council of trade unions that has a collective agreement with an employer or employers' organization, it shall be deemed to be a notice given by or to each member or affiliate of the council of trade unions that is bound by the agreement or that has ceased to be a member or affiliate of the council of trade unions but has not notified the employer or employers' organization in writing that it has ceased to be a member or affiliate. 1954, c. 42, s. 11 (2); 1960, c. 54, s. 18 (2).

Application
of ss. 12-31.

41. Sections 12 to 31 apply to the bargaining that follows the giving of a notice under section 40. R.S.O. 1950, c. 194, s. 39.

TERMINATION OF BARGAINING RIGHTS

42. If the trade union that applies for certification under subsection 2, 3 or 4 of section 5 is certified as bargaining agent for any of the employees in the bargaining unit defined in the collective agreement, the trade union that was or is a party to the agreement, as the case may be, forthwith ceases to represent the employees in the bargaining unit determined in the certificate and the agreement ceases to operate in so far as it affects such employees. R.S.O. 1950, c. 194, s. 40 (4); 1960, c. 54, s. 19. Effect of certification

43.—(1) If a trade union does not make a collective agreement with the employer within one year after its certification, any of the employees in the bargaining unit determined in the certificate may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1950, c. 194, s. 41 (1). Application for termination, no agreement

(2) Any of the employees in the bargaining unit defined in a collective agreement may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit, agreement

(a) in the case of a collective agreement for a term of not more than two years, only after the commencement of the last two months of its operation;

(b) in the case of a collective agreement for a term of more than two years, only after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be;

(c) in the case of a collective agreement referred to in clause *a* or *b* that provides that it will continue to operate for any further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, only during the last two months of each year that it so continues to operate or after the commencement of the last two months of its operation, as the case may be. 1958, c. 47, s. 3.

(3) Upon an application under subsection 1 or 2, the Board shall ascertain the number of employees in the bargaining unit Representation vote

at the time the application was made and whether not less than 50 per cent of the employees in the bargaining unit have voluntarily signified in writing at such time as is determined under clause *j* of subsection 2 of section 77 that they no longer wish to be represented by the trade union, and, if not less than 50 per cent have so signified, the Board shall, by a representation vote, satisfy itself that a majority of the employees desire that the right of the trade union to bargain on their behalf be terminated. 1960, c. 54, s. 20 (1).

Declaration
of
termination
following
vote

(4) If on the taking of the representation vote more than 50 per cent of the ballots of all those eligible to vote are cast in opposition to the trade union, the Board shall declare that the trade union that was certified or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit. R.S.O. 1950, c. 194, s. 41 (4); 1960, c. 54, s. 20 (2).

Absent
employees

(5) In determining the number of eligible voters for the purpose of subsection 4, employees who are absent from work during voting hours and who do not cast their ballots shall not be counted as eligible. R.S.O. 1950, c. 194, s. 41 (5).

Declaration
of
termination
on aban-
donment

(6) Upon an application under subsection 1 or 2, where the trade union concerned informs the Board that it does not desire to continue to represent the employees in the bargaining unit, the Board may declare that the trade union no longer represents the employees in the bargaining unit. 1960, c. 54, s. 20 (3).

Declaration
to terminate
agreement

(7) Upon the Board making a declaration under subsection 4 or 6, any collective agreement in operation between the trade union and the employer that is binding upon the employees in the bargaining unit ceases to operate forthwith. R.S.O. 1950, c. 194, s. 41 (6); 1960, c. 54, s. 20 (4).

Where
certificate
obtained
by fraud

44. If a trade union has obtained a certificate by fraud, the Board may at any time declare that the trade union no longer represents the employees in the bargaining unit and, upon the making of such a declaration, the trade union is not entitled to claim any rights or privileges flowing from certification and, if it has made a collective agreement binding upon the employees in the bargaining unit, the collective agreement is void. R.S.O. 1950, c. 194, s. 42.

Termination,
for failure
to give
notice

45.—(1) If a trade union fails to give the employer notice under section 11 within sixty days following certification or if it fails to give notice under section 40 and no such notice is given by the employer, the Board may, upon the application of the employer or of any of the employees in the bargaining unit, and with or without a representation vote, declare that

the trade union no longer represents the employees in the bargaining unit.

(2) Where a trade union that has given notice under section 11 or section 40 or that has received notice under section 40 fails to commence to bargain within sixty days from the giving of the notice, or after having commenced to bargain but before the Board has granted a request for conciliation services, allows a period of sixty days to elapse during which it has not sought to bargain, the Board may, upon the application of the employer or of any of the employees in the bargaining unit and with or without a representation vote, declare that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1950, c. 194, s. 43.

TIMELINESS OF REPRESENTATION APPLICATIONS

46.—(1) Where a trade union has not made a collective agreement within one year after its certification and notice has been given under section 11 and the Board has granted a request for conciliation services, no application for a declaration that the trade union no longer represents the employees in the bargaining unit determined in the certificate shall be made,

- (a) unless a conciliation board or a mediator has been appointed and thirty days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties; or
- (b) unless thirty days have elapsed after the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board. 1954, c. 42, s. 12, *part*; 1950, c. 54, s. 22 (1).

(2) Where notice has been given under section 40 and the Board has granted a request for conciliation services, no application for certification of a bargaining agent of any of the employees in the bargaining unit as defined in the collective agreement and no application for a declaration that the trade union that was a party to the collective agreement no longer represents the employees in the bargaining unit as defined in the agreement shall be made after the date when the agreement ceased to operate or the date when the request for conciliation services was granted, whichever is later,

- (a) unless following the granting of the request a collective agreement has been made between the parties and,
 - (i) in the case of an agreement for a term of not more than two years, the last two months of its operation have commenced, or

- (ii) in the case of an agreement for more than two years, the twenty-third month of its operation has commenced; or
- (b) where no such agreement has been made, unless
 - (i) at least twelve months have elapsed from the date of the granting of the request, or
 - (ii) a conciliation board or a mediator has been appointed and thirty days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties, or
 - (iii) thirty days have elapsed after the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board,

whichever is later. 1954, c. 42, s. 12, *part*; 1958, c. 47, s. 4; 1960, c. 54, s. 22 (2).

SUCCESSOR RIGHTS

Declaration
of
successor
union

47.—(1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent of a unit of employees of an employer and any question arises in respect of its right to act as the successor, the Board, in any proceeding before it or on the application of any person or trade union concerned, may declare that the successor has or has not, as the case may be, acquired the rights, privileges and duties under this Act of its predecessor, or the Board may dismiss the application. 1956, c. 35, s. 3, *part*; 1957, c. 57, s. 5.

Idem

(2) Before issuing a declaration under subsection 1, the Board may make such inquiry, require the production of such evidence or hold such representation votes as it deems appropriate.

Idem

(3) Where the Board makes an affirmative declaration under subsection 1, the successor shall for the purposes of this Act be conclusively presumed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise, and the employer, the successor and the employees concerned shall recognize such status in all respects. 1956, c. 35, s. 3, *part*.

UNFAIR PRACTICES

Employers,
etc., not
to interfere
with unions

48. No employer or employers' organization and no person acting on behalf of an employer or an employers' organization shall participate in or interfere with the formation, selection

or administration of a trade union or the representation of employees by a trade union or contribute financial or other support to a trade union, but nothing in this section shall be deemed to deprive an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. 1960, c. 54, s. 24.

49. No trade union and no person acting on behalf of a trade union shall participate in or interfere with the formation or administration of an employers' organization or contribute financial or other support to an employers' organization. R.S.O. 1950, c. 194, s. 46.

Unions not to interfere with employers' organizations

50. No employer, employers' organization or person acting on behalf of an employer or an employers' organization,

Employers not to interfere with employees' rights

- (a) shall refuse to employ or to continue to employ a person, or discriminate against a person in regard to employment or any term or condition of employment because the person was or is a member of a trade union or was or is exercising any other rights under this Act;
- (b) shall impose any condition in a contract of employment or propose the imposition of any condition in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of a trade union or exercising any other rights under this Act; or
- (c) shall seek by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to exercise any other rights under this Act. R.S.O. 1950, c. 194, s. 47, *amended*.

51.—(1) No employer, employers' organization or person acting on behalf of an employer or an employers' organization shall, so long as a trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with any person or another trade union or a council of trade unions on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. 1954, c. 42, s. 13, *part*.

Employers not to interfere with bargaining rights

(2) No trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions shall, so long as another trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter

Trade unions not to interfere with bargaining rights

into a collective agreement with an employer or an employers' organization on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. 1954, c. 42, s. 13, *part*; 1958, c. 47, s. 5.

Intimidation
and coercion

52. No person shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of a trade union or of an employers' organization. R.S.O. 1950, c. 194, s. 48 (1).

Persuasion
during
working
hours

53. Nothing in this Act authorizes any person to attempt at the place at which an employee works to persuade him during his working hours to become or refrain from becoming or continuing to be a member of a trade union. R.S.O. 1950, c. 194, s. 48 (2).

Strike or
lock-out,
agreement

54.—(1) Where a collective agreement is in operation, no employee bound by the agreement shall strike and no employer bound by the agreement shall lock out such an employee. R.S.O. 1950, c. 194, s. 49 (1).

no
agreement

(2) Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until a trade union has become entitled to give and has given notice under section 11 or has given notice under section 40, on behalf of the employee to his employer, or in the case of a notice under section 40, has received such notice, and conciliation services have been granted and seven days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties or the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board. R.S.O. 1950, c. 194, s. 49 (2); 1954, c. 42, s. 14; 1960, c. 54, s. 25 (1).

Strike vote
to be
secret

(3) A strike vote taken by a trade union shall be by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed. 1960, c. 54, s. 25 (2).

Unlawful
strikes

55. No trade union or council of trade unions shall call or authorize, and no officer, official or agent of a trade union or council of trade unions shall counsel, procure, support or encourage an unlawful strike. R.S.O. 1950, c. 194, s. 50; 1954, c. 42, s. 15.

Unlawful
lock-outs

56. No employer or employers' organization shall call or authorize, and no officer, official or agent of an employer or employers' organization shall counsel, procure, support or encourage an unlawful lock-out. R.S.O. 1950, c. 194, s. 51.

57.—(1) No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lock-out. Causing unlawful strikes, lock-outs

(2) Subsection 1 does not apply to any act done in connection with a lawful strike or lawful lock-out. 1960, c. 54, s. 26. Application of subs. 1

58. Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. R.S.O. 1950, c. 194, s. 52. Saving

59.—(1) Where notice has been given under section 11 or section 40 and no collective agreement is in operation, no employer shall, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer, the trade union or the employees, and no trade union shall, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the trade union or the employees, Working conditions may not be altered

(a) until conciliation services have been granted and seven days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties or the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board; or

(b) until the right of the trade union to represent the employees has been terminated,

whichever occurs first. 1954, c. 42, s. 16; 1960, c. 54, s. 27.

(2) Where notice has been given under section 40 and no collective agreement is in operation, any difference between the parties as to whether or not subsection 1 of this section was complied with may be referred to arbitration by either of the parties as if the collective agreement was still in operation and section 34 applies *mutatis mutandis* thereto. 1957, c. 57, s. 6. Differences may be arbitrated

LOCALS UNDER TRUSTEESHIP

60.—(1) A provincial, national or international trade union that assumes supervision or control over a subordinate trade union, whereby the autonomy of such subordinate trade union, under the constitution or by-laws of the provincial, national or international trade union is suspended, shall, within sixty Trusteeship over local unions

days after it has assumed supervision or control over the subordinate trade union, file with the Board a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Board, file such additional information concerning such supervision and control as the Minister from time to time requires.

Duration of
trusteeship

(2) Where a provincial, national or international trade union has assumed supervision or control over a subordinate trade union, such supervision or control shall not continue for more than twelve months from the date of such assumption, but such supervision or control may be continued for a further period of twelve months with the consent of the Board.

Existing
trusteeship

(3) Notwithstanding anything in this section, where supervision or control over a subordinate trade union has been assumed by a provincial, national or international trade union before the date on which section 28 of *The Labour Relations Amendment Act, 1960* came into force, the report required by subsection 1 shall be filed within sixty days after such date and the supervision or control shall not continue for more than twelve months from such date, but the supervision or control may be continued for a further period of twelve months with the consent of the Board. 1960, c. 54, s. 28, *revised*.

INFORMATION

Collective
agreements
to be filed

61. Each party to a collective agreement shall, forthwith after it is made, file one signed copy thereof with the Board. R.S.O. 1950, c. 194, s. 54.

Officers,
constitution,
etc.

62. The Board may direct a trade union, council of trade unions or employers' organization to file with the Board within the time prescribed in the direction a copy of its constitution and by-laws and a statutory declaration of its president or secretary setting forth the names and addresses of its officers. R.S.O. 1950, c. 194, s. 55; 1954, c. 42, s. 17.

Duty of
union to
furnish
financial
statement
to members

63. Every trade union shall upon the request of any member furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any member that the trade union has failed to furnish such a statement to him, the Board may direct the trade union to file with the Registrar, within such time as the Board determines, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for

the handling and administration of its funds and to furnish a copy of such statement to such members of the trade union as the Board in its discretion directs, and the trade union shall comply with such direction according to its terms. 1960, c. 54, s. 29.

64. Every publication that deals with the relations between employers or employers' organizations and trade unions or employees shall bear the names and addresses of its printer and its publisher. Publications R.S.O. 1950, c. 194, s. 56.

ENFORCEMENT

65.—(1) The Board may authorize a field officer to inquire into a complaint that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act. Inquiry by field officer

(2) The field officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of. Duties

(3) The field officer shall report the results of his inquiry and endeavours to the Board. Report

(4) Where the field officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint and, if it is satisfied that the person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act, it shall determine the action, if any, to be taken by the employer and the trade union or either of them with respect to the employment of such person, which, in its discretion, may, notwithstanding the provisions of a collective agreement, include reinstatement in employment with or without compensation by the employer and the trade union or either of them for loss of earnings and other employment benefits, and the employer and the trade union shall do or abstain from doing anything required of them by the determination. Remedy for discrimination

(5) Where the employer or the trade union has failed to comply with any of the terms of the determination, any employer, trade union or employee affected by the determination may, after the expiration of fourteen days from the date of the release of the determination or the date provided in the determination for compliance, whichever is later, notify the Board of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, in the prescribed form, whereupon the determination shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1960, c. 54, s. 30, *part.* Enforcement of determination

Juris-
dictional
disputes
commission,
interim
order

66.—(1) Upon complaint to the Board that a trade union or council of trade unions, or an officer, official or agent of a trade union or council of trade unions, was or is requiring an employer or an employers' organization to assign particular work to employees in a particular trade union or in a particular trade, craft or class rather than to employees in another trade union or in another trade, craft or class, or that an employer was or is assigning particular work to employees in a particular trade union rather than to employees in another trade union, a jurisdictional disputes commission may, after consulting any person, employers' organization, trade union or council of trade unions that in its opinion may be affected by the complaint, make such interim order with respect to the assignment of the work as it in its discretion deems proper in the circumstances, and the employer, employers' organization, trade union, council of trade unions and the officers, officials or agents of any of them shall comply with the interim order.

Recon-
sideration

(2) At the request of any person, employers' organization, trade union or council of trade unions affected by the interim order, the commission shall reconsider the complaint, but it shall not do so at the request of a person, employers' organization, trade union or council of trade unions that has failed to comply with the interim order so long as the failure continues.

Determina-
tion

(3) Upon the reconsideration of the complaint, the commission shall give to any person, employers' organization, trade union or council of trade unions affected by the interim order full opportunity to present evidence and to make submissions and, if it finds that the trade union, council of trade unions, officer, official or agent of a trade union or council of trade unions was or is in its opinion unjustifiably requiring the employer to assign work or that the employer was or is in its opinion unjustifiably assigning work, it shall direct the action to be taken by the employer, employers' organization, trade union, council of trade unions or any officer, official or agent of any of them with respect to the assignment of the work, and the employer, employers' organization, trade union, council of trade unions and the officers, officials or agents of any of them shall comply with the direction.

Powers of
commission

(4) The commission has all the powers of a conciliation board under section 28.

Determina-
tion final,
saving

(5) Subject to subsection 6, the direction of the commission is final and conclusive for all purposes, but the commission may at any time, if it considers it advisable to do so, reconsider the direction and vary or revoke it.

Review by
Board

(6) Any person, employers' organization, trade union or council of trade unions affected by an interim order or a direction of a commission may apply to the Board, within seven

days after the release of the interim order or the direction, and, if the Board is satisfied that the interim order or the direction prohibits a lawful strike or lock-out or restrains an employer, employers' organization, trade union, council of trade unions or an officer, official or agent of any of them or an employee from observing the provisions of a collective agreement relating to the assignment of work or prohibits a trade union or council of trade unions or an employer or employers' organization from bargaining collectively in respect of employees in a bargaining unit on whose behalf the trade union or council of trade unions is entitled to bargain, it may quash the interim order or the direction or it may alter the bargaining unit determined in a certificate or defined in a collective agreement as it deems proper to enable the interim order or the direction to be carried into effect in conformity with the other provisions of this Act, and the certificate or collective agreement, as the case may be, shall be deemed to have been altered in accordance with the Board's determination.

(7) Where the employer, the employers' organization, the trade union, the council of trade unions or an officer, official or agent of any of them or an employee has failed to comply with any of the terms of the interim order or the direction, any employer, employers' organization, trade union, council of trade unions or employee affected by the interim order or the direction may,

Enforce-
ment
of interim
order or
direction

- (a) in the case of an interim order, after the expiration of two days from the release of the interim order or of the date provided in the interim order for compliance, whichever is later; and
- (b) in the case of a direction, after the expiration of fourteen days from the release of the direction or the date provided in the direction for compliance, whichever is later,

notify the Board of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the interim order or the direction, exclusive of the reasons therefor, in the prescribed form, whereupon the interim order or direction shall be entered in the same way as a judgment or order of that court and is enforceable as such.

(8) No interim order or direction of a commission shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken, in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question, review, prohibit or restrain a commission or any of its proceedings.

Commis-
sion's
orders and
directions
not subject
to review

Postpone-
ment of
inquiry

(9) Notwithstanding anything in this section, where a trade union, a council of trade unions or a group of trade unions and an employer, an employers' organization, a group of employers or a group of employers' organizations have made an arrangement to resolve any difference between them arising from the assignment of work, the commission may postpone inquiring into a complaint or the reconsideration of a complaint under this section until the difference has been dealt with in accordance with such arrangement. 1960, c. 54, s. 30, *part*.

Declaration
of unlawful
strikes

67. Where a trade union or a council of trade unions calls or authorizes a strike or employees engage in a strike that the employer or employers' organization concerned alleges was or is unlawful, the employer or employers' organization may apply to the Board for a declaration that the strike was or is unlawful, and the Board may make such declaration. R.S.O. 1950, c. 194, s. 59; 1954, c. 42, s. 18, *amended*.

Declaration
of unlawful
lock-outs

68. Where an employer or employers' organization calls or authorizes a lock-out that any of the employees or the trade union or the council of trade unions concerned alleges was or is unlawful, any of the employees or the trade union or the council of trade unions may apply to the Board for a declaration that the lock-out was or is unlawful, and the Board may make such declaration. R.S.O. 1950, c. 194, s. 60; 1954, c. 42, s. 19, *amended*.

Offences

69.—(1) Every person, trade union, council of trade unions or employers' organization that contravenes any provision of this Act or of any decision, order, direction, declaration or ruling made under this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$100; or
- (b) if a corporation, trade union, council of trade unions or employers' organization, to a fine of not more than \$1,000. 1954, c. 42, s. 20, *part*; 1957, c. 57, s. 7.

Continued
offences

(2) Each day that a person, trade union, council of trade unions or employers' organization contravenes any provision of this Act or of any decision, order, direction, declaration or ruling made under this Act constitutes a separate offence. 1954, c. 42, s. 20, *part*.

Disposition
of fines

(3) Every fine recovered for an offence under this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 194, s. 61 (3).

70. An information in respect of a contravention of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1950, c. 194, s. 62. Information may be in respect of one or more offences

71. If a corporation, trade union, council of trade unions or employers' organization is guilty of an offence under this Act, every officer, official or agent thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence. R.S.O. 1950, c. 194, s. 63; 1954, c. 42, s. 21. Parties

72.—(1) A prosecution for an offence under this Act may be instituted against a trade union or council of trade unions or employers' organization in the name of the union, council or organization. Style of prosecution

(2) Any act or thing done or omitted by an officer, official or agent of a trade union or council of trade unions or employers' organization within the scope of his authority to act on behalf of the union, council or organization shall be deemed to be an act or thing done or omitted by the union, council or organization. 1954, c. 42, s. 22. Vicarious responsibility

73. Proceedings to enforce a determination of the Board under section 65, a decision of an arbitrator or arbitration board or an interim order or a direction of a jurisdictional disputes commission may be instituted in the Supreme Court by or against a trade union, a council of trade unions or an unincorporated employers' organization in the name of the trade union, council of trade unions or unincorporated employers' organization, as the case may be. 1960, c. 54, s. 31. Proceedings in S.C.O.

74.—(1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board. R.S.O. 1950, c. 194, s. 65; 1960, c. 54, s. 32. Consent

(2) An application for consent to institute a prosecution for an offence under this Act may be made *inter alia* by a trade union and, if the consent is given by the Board, the information may be laid *inter alia* by any officer, official or member of the trade union. 1957, c. 57, s. 8 (2). Information

ADMINISTRATION

75.—(1) The Ontario Labour Relations Board is continued. 1959, c. 50, s. 1, *part*. Board, continued

(2) The Board shall be composed of a chairman, a vice-chairman and one or more deputy vice-chairmen and as many composition and appointment

members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council deems proper, all of whom shall be appointed by the Lieutenant Governor in Council.

divisions

(3) The chairman or, in the case of his absence from the office of the Board or his inability to act, the vice-chairman shall from time to time assign the members of the Board to its various divisions and may change any such assignment at any time. 1960, c. 54, s. 33.

vacancies

(4) Vacancies in the membership of the Board from any cause may be filled by the Lieutenant Governor in Council.

oath of
office

(5) Each member of the Board shall, before entering upon his duties, take and subscribe before the Clerk of the Executive Council and file in his office an oath of office in the following form:

I do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of member (*or* chairman, *or* vice-chairman, *or* deputy vice-chairman) of the Ontario Labour Relations Board and I will not, except in the discharge of my duties, disclose to any person any of the evidence or any other matter brought before the Board. So help me God.

quorum

(6) The chairman or the vice-chairman or a deputy vice-chairman, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all of the jurisdiction and powers of the Board.

may sit in
divisions

(7) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division.

decisions

(8) The decision of the majority of the members of the Board present and constituting a quorum is the decision of the Board, and, in the event of a tie vote, the presiding member has a casting vote.

procedure

(9) The Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and prescribing such forms as are deemed advisable.

registrar,
eto.

(10) The Lieutenant Governor in Council may appoint a registrar, such other officers and such clerks and servants as are required for the purposes of the Board and they shall exercise such powers and perform such duties as are conferred or imposed upon them by the Board.

(11) The members, the other officers and the clerks and servants of the Board shall be paid such remuneration as the Lieutenant Governor in Council determines. ^{remuneration}

(12) The Board shall have an official seal. ^{seal}

(13) The office of the Board shall be in Toronto, but the Board may sit at such other places as it deems expedient. ^{office; sittings}
1959, c. 50, s. 1, *part*.

76. The Lieutenant Governor in Council may appoint one or more jurisdictional disputes commissions and each of such commissions shall be composed of one or more persons as he determines. 1960, c. 54, s. 34. ^{Juris-dictional disputes commissions, appointment}

77.—(1) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act. R.S.O. 1950, c. 194, s. 67 (1). ^{Powers and duties of Board, general}

(2) Without limiting the generality of subsection 1, the Board has power, ^{specific}

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board deems requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as it in its discretion deems proper, whether admissible in a court of law or not;
- (d) to require employers to post and to keep posted upon their premises in a conspicuous place or places where they are most likely to come to the attention of all employees concerned, any notices that the Board deems necessary to bring to the attention of such employees in connection with any proceedings before the Board;
- (e) to enter any premises where work is being or has been done by the employees or in which the employer carries on business, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (f) to enter upon the premises of employers and conduct representation votes during working hours and give such directions in connection with the vote as it deems necessary;

- (g) to authorize any person to do anything that the Board may do under clauses *a* to *f* and to report to the Board thereon;
- (h) to authorize any person to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Board and to report to the Board his findings, conclusions and recommendations thereon;
- (i) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application or by any person or trade union representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;
- (j) to determine the form in which and the time as of which evidence of membership in a trade union or of objection by employees to certification of a trade union or of signification by employees that they no longer wish to be represented by a trade union shall be presented to the Board on an application for certification or for a declaration terminating bargaining rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined. R.S.O. 1950, c. 194, s. 67 (2); 1957, c. 57, s. 10; 1960, c. 54, s. 35.

Mistakes
in names
of parties

78. Where in any proceedings before the Board the Board is satisfied that a *bona fide* mistake has been made with the result that the proper person or trade union has not been named as a party or has been incorrectly named, the Board may order the proper person or trade union to be substituted or added as a party to the proceedings or to be correctly named upon such terms as appear to the Board to be just. 1957, c. 57, s. 11.

Jurisdiction

79.—(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act, and, without limiting the generality of the foregoing, if any question arises in proceedings,

- (a) as to whether a person is an employer or an employee;
- (b) as to whether a person exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations;

- (c) as to whether an organization is a trade union, council of trade unions or an employers' organization;
- (d) as to whether a collective agreement has been made or as to whether it is in operation or as to who the parties are or who are bound by it or on whose behalf it was made;
- (e) as to whether a group of employees constitute a bargaining unit;
- (f) as to whether the parties have bargained in good faith and made every reasonable effort to make a collective agreement;
- (g) as to whether a trade union represents the employees in a bargaining unit; or
- (h) as to whether a person is a member of a trade union,

the decision of the Board thereon is final and conclusive for all purposes, but nevertheless the Board may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling. R.S.O. 1950, c. 194, s. 68 (1); 1954, c. 42, s. 25 (1); 1957, c. 57, s. 12.

(2) If, in the course of bargaining for a collective agreement ^{Idem} or during the period of operation of a collective agreement, a question arises as to whether a person is an employee or as to whether a person is a guard, the question may be referred to the Board and the decision of the Board thereon is final and conclusive for all purposes. R.S.O. 1950, c. 194, s. 68 (2); 1954, c. 42, s. 25 (2).

80. No decision, order, direction, declaration or ruling of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings. R.S.O. 1950, c. 194, s. 69. ^{Board's orders not subject to review}

81. No member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit respecting information obtained in the discharge of their duties under this Act. R.S.O. 1950, c. 194, s. 70. ^{Protection from being called as witness}

82. The production in a court of a document purporting to be or to contain a copy of a decision, determination, report, interim order, order, direction, declaration or ruling of the ^{Documentary evidence}

Board, a conciliation board, a mediator, an arbitrator, an arbitration board or a jurisdictional disputes commission and purporting to be signed by a member of the Board or its registrar, the chairman of the conciliation board, the mediator, the arbitrator, the chairman of the arbitration board or a member of the jurisdictional disputes commission, as the case may be, is *prima facie* proof of such document without proof of the appointment, authority or signature of the person who signed the document. 1960, c. 54, s. 36.

GENERAL

Secrecy as
to union
membership

83.—(1) The records of a trade union relating to membership or any records that may disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union produced in a proceeding before the Board is for the exclusive use of the Board and its officers and shall not, except with the consent of the Board, be disclosed, and no person shall, except with the consent of the Board, be compelled to disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union. R.S.O. 1950, c. 194, s. 72 (1).

Secrecy of
information
given
conciliation
officers

(2) No information or material furnished to or received by a conciliation officer under this Act and no report of a conciliation officer shall be disclosed except to the Minister, the Deputy Minister of Labour or the chief conciliation officer of the Department of Labour, and the Minister, the Deputy Minister of Labour, the chief conciliation officer of the Department of Labour or any conciliation officer appointed under this Act is not a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report. R.S.O. 1950, c. 194, s. 72 (2); 1954, c. 42, s. 26.

Secrecy of
information
given field
officers

(3) No information or material furnished to or received by a field officer under this Act and no report of a field officer shall be disclosed except to the Board, and no member of the Board and no field officer is a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report. 1960, c. 54, s. 37.

Delegation
of Minister's
powers to
Deputy
Minister

84. Where an appointment, order or direction is required to be made under this Act by the Minister, he may authorize the Deputy Minister of Labour to make the appointment, order or direction, and a document purporting to be or to contain a copy of such an appointment, order or direction purporting to be signed by the Minister or by the Deputy Minister shall be accepted by any court as evidence of the appointment, order or direction. R.S.O. 1950, c. 194, s. 73.

85.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. R.S.O. 1950, c. 194, s. 74. Mailed notices

(2) An application for certification or for a declaration that a trade union no longer represents the employees in a bargaining unit, if sent by registered mail addressed to the Board at Toronto, shall be deemed to have been made on the date on which it was so mailed. Time of making certain applications

(3) A decision or determination of the Board, a report of a conciliation board or a mediator, a decision of an arbitrator or arbitration board or an interim order or a direction of a jurisdictional disputes commission, if sent by registered mail to the person, employers' organization, trade union or council of trade unions concerned addressed to him or it at his or its last known address, shall be deemed to have been released on the second day after the date on which it was so mailed. 1960, c. 54, s. 38. Time of release of certain documents

86. No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. R.S.O. 1950, c. 194, s. 75. Defects in form; technical irregularities

87. The expenses incurred in the administration of this Act shall be paid out of the moneys that are appropriated by the Legislature for the purpose. R.S.O. 1950, c. 194, s. 76. Administration cost

88. The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing for and regulating the engagement of experts, investigators and other assistants by conciliation boards;
- (b) providing for and fixing the remuneration and expenses of chairmen and other members of conciliation boards;
- (c) respecting the functioning of jurisdictional disputes commissions and prescribing their practice and procedure;
- (d) requiring the filing with the Department of Labour of awards of arbitrators and arbitration boards;
- (e) requiring the filing with the Department of Insurance of audited financial statements of the affairs of pen-

sion or welfare funds operated for the benefit of employees and prescribing the content and form of such statements;

- (f) prescribing forms and providing for their use, including the form in which the documents mentioned in sections 34, 65 and 66 shall be filed in the Supreme Court;
- (g) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. 1960, c. 54, s. 39.

Municipal-
ties, local
boards, etc.
R.S.O. 1960,
c. 98

89. A municipality as defined in *The Department of Municipal Affairs Act* may declare that this Act does not apply to it in its relations with its employees or any of them. R.S.O. 1950, c. 194, s. 78.

CHAPTER 203

The Lakes and Rivers Improvement Act

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) "dam" means a dam or other work forwarding, holding back or diverting water;
- (b) "Department" means the Department of Lands and Forests;
- (c) "floating of timber" includes transmission of timber;
- (d) "lake" includes a pond;
- (e) "Minister" means the Minister of Lands and Forests;
- (f) "regulations" means the regulations made under this Act;
- (g) "river" includes a creek and a stream;
- (h) "timber" includes rafts and crafts, saw logs, posts, ties, cordwood, pulpwood, masts, staves, deals, boards, and all sawed and manufactured lumber. R.S.O. 1950, c. 195, s. 1, *amended*.

GENERAL PROVISIONS

2.—(1) The Lieutenant Governor in Council may make Regulations regulations,

- (a) for the safe and orderly floating of timber down lakes and rivers, and for preventing the use of the lakes and rivers for navigation by vessels and boats being unnecessarily impeded or interfered with by the timber;
- (b) respecting generally the use under this Act of lakes and rivers and waters therein;
- (c) prescribing penalties for contravention of the regulations. R.S.O. 1950, c. 195, s. 2 (1); 1955, c. 39, s. 1.

(2) The regulations may be general in their application, or be applicable to any particular Part of this Act or to any par-

Scope of
regulations

ticular lake or river or to any particular dam or work. R.S.O. 1950, c. 195, s. 2 (2).

Compliance
with Part
VI

3. Every person making use of a lake or river upon which works are constructed under this or any other Act for the purpose of floating timber shall comply with the requirements of Part VI as to timber driving. R.S.O. 1950, c. 195, s. 3.

County or
district
judge sole
arbitrator
for deter-
mining
claims

4. Where in this Act any claim for compensation for land, property or works taken or injuriously affected or a claim or dispute is to be determined by arbitration, a judge of the county or district court of the county or district in which the land, property or works are situate or in which the claim or dispute arises or, in the case of a claim under Part VI, in which the timber in connection with which the claim or part of the claim is made or the greater part of such timber is situate at the time of the service of the notice of claim, shall be the sole arbitrator for such purpose and *The Arbitrations Act* otherwise applies. R.S.O. 1950, c. 195, s. 4.

R.S.O. 1960,
c. 18

Where com-
pensation
for flooding
or injury by
dam made
before grant
from the
Crown

5. Where land is overflowed or otherwise injured by the maintenance of a dam that was erected before the land was granted by the Crown and the grantee or any person under whom he derived title obtained a reduction in the price of the land on account of, or was otherwise indemnified for, its being overflowed or otherwise injured by the dam, no subsequent owner of the land is entitled to maintain an action against the owner or occupier of the dam for damages for any overflowing or injury to the land due to the continuance of the dam. R.S.O. 1950, c. 195, s. 5.

Restrictions
upon
operations

6. Nothing in this Act authorizes any person to obstruct any waters already navigable or to collect tolls other than those upon timber. R.S.O. 1950, c. 195, s. 6.

Rights of
parties as to
water
powers
created

7. If, by reason of a dam erected for the floating of timber, any water power is created, the owner of the dam does not have any title or claim to the use of such water power, but, if the owner or occupier of the adjoining land claims compensation for damages arising from such dam, the claim shall be determined by arbitration and the arbitrator may take into account the increased value of his land by reason of the water power so created. R.S.O. 1950, c. 195, s. 7.

PART I

CONSTRUCTION, REPAIR AND USE OF DAMS

Interpre-
tation

8. In this Part,

(a) "engineer" means an engineer designated by the Minister;

- (b) "owner" means an owner of a dam, and includes the person constructing, maintaining or operating it.
R.S.O. 1950, c. 195, s. 8, *amended*.

9.—(1) A dam shall not be constructed on any lake or river unless the site and plans and specifications thereof have been approved by the Minister, and such approval shall be deemed to be of an administrative and not of a legislative nature.

(2) Application for such approval shall be made in writing to the Minister and shall be accompanied by,

- (a) complete copies of the plans and a report of the engineer in charge of the work showing full details of the construction of sluice-gates, spillways and other works connected with the dam and the height at which the water is to be held;
- (b) a map of the watershed affected which shall show the area of the watershed above the dam with the estimated elevation of high water caused by the spring, summer and autumn freshets, where the water level is raised by the dam, and the submerged areas at low, normal and high water periods, in different colours;
- (c) particulars as to the nature of the bottom or foundation on which the dam is to be constructed with reports of all boring or test pits;
- (d) such other particulars as the Minister requires,

but nothing in this section prevents or applies to the construction of an emergency dam where such construction is considered necessary for the prevention of loss or damage, but in such case the owner shall immediately give notice to the Minister that he is proceeding with the construction of the dam and shall thereafter comply with any directions of the Minister as to the precautions to be taken in maintaining the dam or its removal when the purpose for which it was constructed has been served.

(3) The approval of the Minister shall not be given until an engineer has examined the plans, documents and other information and recommended the approval of the proposed dam.

(4) Upon the request of the Minister made either before or after the construction thereof, every such dam hereafter constructed shall be provided with a fishway that will permit the free and unobstructed passage of fish up and down stream at any season of the year. R.S.O. 1950, c. 195, s. 9.

Approval
of plans
and specifications

10. Where a dam has heretofore been or is hereafter constructed in a lake or river and it is proposed to make improvements to the dam, the improvements shall not be proceeded with until complete copies of the plans and specifications have been approved by the Minister, and such approval shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1950, c. 195, s. 10.

Requiring
production
of plans on
report of
engineer

11.—(1) Where a dam has heretofore been or is hereafter constructed in a lake or river and an engineer or other officer of the Department reports that by reason of the construction or condition of the dam water may be held, released or diverted in sufficient volume to cause personal injury or damage to property, the Minister may require the owner of the dam to furnish within a given time the plans and other particulars mentioned in subsection 2 of section 9. R.S.O. 1950, c. 195, s. 11 (1).

Failure to
furnish
plans

(2) Upon failure on the part of the owner to furnish such plans and other particulars within the time specified, the Minister may require the engineer to make an examination and report on the dam, and the expenses incurred in making the examination and report shall be in debt due by the owner to the Crown, and the amount thereof as certified by the Minister is recoverable with costs in any court of competent jurisdiction. R.S.O. 1950, c. 195, s. 11 (2), *amended*.

Engineer
to have
free access

(3) For the purpose of making the report, the engineer shall have free access to all parts of the dam and to the adjoining or neighbouring lands and to all plans, books, accounts, documents and reports relating to the construction of the dam.

Order to
repair,
improve,
etc.

(4) On the report of the engineer, the Minister may make such order as he deems necessary to ensure the safety of the public or of persons whose lands and property may be endangered by the dam, and for such purpose may order the owner to repair, improve, open up or remove it, and may fix the time within which such repairs, improvements, opening up or removal are to be completed. R.S.O. 1950, c. 195, s. 11 (3, 4).

Effect of
non-com-
pliance with
order

(5) Upon non-compliance with the order within the time limited or in case the Minister deems that the repairs, improvements, opening up or removal ordered is immediately required in an emergency, the Minister may do or cause to be done whatever is necessary, and the cost of any such work, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. R.S.O. 1950, c. 195, s. 11 (5), *amended*.

(6) Where any dam heretofore constructed has not been provided with a fishway, the Minister may direct that the owner of the dam shall forthwith provide a fishway that will permit the free and unobstructed passage of fish up and down stream at any season of the year. R.S.O. 1950, c. 195, s. 11 (6). Direction
for fishway
to be
provided

12.—(1) Where water has been impounded for power development or storage purposes, the Minister may order the owner of any dam that impounds the water, Clearing
flooded
areas

- (a) to clear timber, slash or debris from the lands that are or were flooded; and
- (b) to remove any timber, slash or debris that has escaped from the flooded lands to any lake or river,

within the time specified in the order.

(2) Where the owner of a dam fails to comply with an order made under subsection 1 within the time specified in the order, the Minister may cause to be done whatever is necessary to achieve the result intended by the order, and the cost thereof, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. 1960, c. 55, s. 1. Idem

13.—(1) The Minister may authorize the engineer to inspect or cause an inspection to be made of any dam or other structure or work for the development, improvement or utilization of the waters of any lake or river and report in writing upon the state of repair of the dam or other structure or work. R.S.O. 1950, c. 195, s. 13 (1). Minister
may
authorize
inspection

(2) If the Minister deems it necessary or expedient in the public interest, he may, after the receipt of the report of the engineer, order the owner of the dam or other structure or work to repair, reconstruct or remove the same within the time specified in the order. R.S.O. 1950, c. 195, s. 13 (2); 1953, c. 53, s. 1 (1). Repair or
reconstruc-
tion

(3) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may cause a plan and description of the site of the dam or other structure or work prepared and signed by an Ontario land surveyor and signed by the Minister to be deposited in the proper registry or land titles office and thereupon such site and the dam or other structure or work and all rights incidental thereto are forfeited to the Crown without it making compensation therefor. Non-com-
pliance
with order

Rights of
Crown to
repair, etc.

(4) Where a site and the rights of the owner in a dam or other structure or work have been forfeited to the Crown under this section, the Crown has over the adjoining and neighbouring lands such rights as may be necessary to repair or reconstruct and maintain and operate or to remove the dam or other structure or work. 1953, c. 53, s. 1 (2).

Offences

14.—(1) Every person who,

- (a) constructs or maintains a dam in contravention of this Part;
- (b) refuses or neglects to comply with an order, requirement or direction of the Minister made under this Part; or
- (c) hinders or obstructs the engineer in the performance of his duties under this Part, or refuses or neglects to produce any plans, accounts, documents or report relating to the construction of a dam when required by the engineer,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$500, and if after conviction such default continues, such person is liable to a further fine of \$10 for each day upon which the default continues.

Liability
not affected
by con-
viction

(2) The conviction of a person under subsection 1 does not affect his liability for damages or otherwise either at common law or under any statute in force in Ontario. R.S.O. 1950, c. 195, s. 14, *amended*.

Plans, etc.,
to be kept
on file in
Department

15. All plans, orders and reports furnished or made under this Part shall be kept on file in the Department. R.S.O. 1950, c. 195, s. 15.

Disputes
as to user

16. Where it appears expedient in the public interest, or where a conflict or dispute arises between persons having a right to use a lake or river or any works or other improvements thereon for floating timber or between such persons and any other persons having the right to use a lake or river for any other purpose, the Minister may appoint an officer or officers with such powers and duties as are deemed expedient to be in charge of the lake or river or any works or improvements thereon and to regulate the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having diverse interests on the lake or river or in the works or improvements a fair and reasonable use of the waters of the lake or river, but where any alterations of the level of international boundary waters is involved, such regulation, powers and duties shall conform

to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States. R.S.O. 1950, c. 195, s. 16.

17.—(1) Where a dam or other structure or work has been heretofore or is hereafter constructed on a lake or river and the Minister deems it necessary or expedient in the public interest, he may order the owner of the dam or other structure or work to take such steps within the time specified in the order as may be necessary to maintain the level of the water of the lake or river or to raise or lower such level as the order provides. Regulation of water levels

(2) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may cause to be done whatever is necessary to achieve the result intended by the order, and the cost thereof, as certified by him, is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction at the suit of the Treasurer of Ontario. Non-compliance with order

(3) This section does not apply to any lake or river over which the International Joint Commission established under the Boundary Waters Treaty of 1909 or any public authority exercising jurisdiction under the Parliament of Canada or The Lake of the Woods Control Board established under *The Lake of the Woods Control Board Act, 1922* has jurisdiction with respect to the level of the water. 1953, c. 53, s. 2. Where section not to apply 1922, c. 21

18. Subject to compensation being made as provided by *The Public Works Act* for any damages sustained by reason thereof, the Minister may authorize any engineer, agent, workman or servant employed by or under him to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he deems necessary or expedient in the public interest. R.S.O. 1950, c. 195, s. 18. Removal of obstructions dams, etc., on order of Minister R.S.O. 1960, c. 338

19.—(1) A judge of the county or district court of the county or district in which any part of any works used for floating timber is situate, on the complaint of any person interested in the floating of timber down any lake or river, through or over the works upon which tolls are collected, that the works are clearly inadequate by reason of being out of repair, shall appoint an inspector to examine the works and to report on the state of repair thereof. Works out of repair

(2) The judge shall, after report of the inspector, order the repairs that are necessary and that shall be made by the owner of the works, and the time by which the repairs shall be made and completed. Order to repair

When
person
interested
may repair

(3) If the owner does not comply with the order, the person so interested may make the repairs, and the cost thereof, or such portion of them as the judge determines, shall be paid by the owner and is a lien and charge in favour of such person on the works and tolls.

Deposit to
cover fees

(4) The judge may require the applicant to deposit with the clerk of the court such sum as will, in the opinion of the judge, be sufficient to pay the fees and expenses of the inspector, to be allowed by the judge at a rate of not more than \$10 per day and actual travelling expenses, and such sum, when the works are found to be clearly inadequate by reason of being out of repair, may, in the discretion of the judge, be made a lien or charge in favour of the person paying the same on the works and tolls.

Bond to
cover costs

(5) The applicant shall, before the application comes on to be heard, file with the judge a bond signed by himself in the sum of \$100 and by two sufficient sureties, who shall duly qualify, each in the sum of \$50, conditioned to pay to the owner such costs connected with the application and subsequent proceedings as the owner may become entitled to.

Notice

(6) Four days notice of the application is sufficient and the notice may be served upon the owner, or, in the case of a company, upon the president, secretary or superintendent, manager or acting manager thereof.

Costs

(7) The costs incidental to the application shall be upon the county court or division court scale, as the judge directs.

Interpre-
tation

(8) In this section, "inspector" means a person appointed by the Lieutenant Governor in Council to act as inspector of works constructed for the floating of timber. R.S.O. 1950, c. 195, s. 19.

Provision
for passage
of timber

20. Where a dam is now or is hereafter erected on or across any lake or river down which timber is usually floated, such dam shall at all times be provided with a slide or apron for the passage of timber of such description and dimensions as are approved by the Minister and such approval shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1950, c. 195, s. 20; 1955, c. 39, s. 2.

Apron to
admit of
timber
passing

21. Every such apron shall be so constructed and maintained as to afford a depth of water sufficient to admit of the passage over it of such timber as is usually floated down the lake or river on which the dam is erected. R.S.O. 1950, c. 195, s. 21.

Offence

22.—(1) The owner and occupier of a dam who does not provide, maintain and keep in repair a slide or apron thereto in accordance with such description and dimensions as are approved by the Minister under section 20 is guilty of an

offence and on summary conviction is liable to a fine of \$50 for each day on which the default occurs or during which it continues. 1955, c. 39, s. 3.

(2) Where the apron is carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the dam is not liable to the fine provided by subsection 1 if the apron is repaired or reconstructed as soon as the state of the lake or river safely permits. R.S.O. 1950, c. 195, s. 22 (2). ^{Where apron is carried away, fine suspended}

PART II

PROCLAMATION CONTROLLING NAMED LAKE OR RIVER

23. The Lieutenant Governor in Council may declare that any lake or river is subject to this Part. R.S.O. 1950, c. 195, s. 23. ^{Control by Order in Council}

24.—(1) From and after a date named in the declaration made under section 23, all questions arising in relation to the lake or river, ^{Jurisdiction of Minister}

- (a) as to the right to construct or use works or improvements thereon;
- (b) as to the respective rights of persons using the lake or river for the purpose of floating timber thereon;
- (c) as to the right to interfere with, alter or obstruct in any manner the flow of the water in the lake or river,

shall be determined by the Minister upon application to him by any of the parties concerned, and after such notice to other parties interested as the Minister directs, and no action or other proceeding lies or shall be taken in any court with respect to any such matter.

(2) The order of the Minister given in writing is final and is not subject to appeal. ^{Decision final}

(3) Any such order may be filed in the office of the Registrar of the Supreme Court, or in the office of the local registrar or deputy registrar, and upon being so filed it becomes an order of the Supreme Court and may be enforced in the same manner and by the like process as if it had been made by that court. ^{Enforcement of order of Minister}

(4) The like fees are payable as upon an order made by a judge of the Supreme Court in the exercise of his ordinary jurisdiction. ^{Fees on filing order}

(5) The order shall be entered in the same manner as a judgment of the court. R.S.O. 1950, c. 195, s. 24. ^{Entry of order}

PART III

PUBLIC RIGHTS IN LAKES AND RIVERS

Application **25.** This Part is subject to Parts I and II. R.S.O. 1950, c. 195, s. 25.

Right to float timber **26.**—(1) Subject to this Part, all persons may float timber down all lakes and rivers during the spring, summer and autumn freshets.

Duty not to obstruct (2) No person shall, by felling trees or placing any other obstruction in or across a lake or river, prevent the floating of timber.

Right to remove obstructions and to construct works (3) If it is necessary to remove an obstruction from a lake or river, or to construct a dam, apron, slide, gate, lock, boom or other work therein or thereon in order to facilitate the floating of timber down the lake or river, the person requiring so to float the timber may remove the obstruction, and may construct the dam, apron, slide, gate, lock, boom or other work, doing no unnecessary damage to the lake or river or to its banks.

Right of persons driving timber, etc., to go on banks (4) All persons driving timber down a lake or river have the right to go along the banks of the lake or river for the purpose of assisting and to assist the floating of the timber by all means usual with lumbermen, doing no unnecessary damage to the banks of the lake or river. R.S.O. 1950, c. 195, s. 26.

Right of public to use works and improvements **27.** A person who has constructed in or upon a lake or river, which was not navigable or floatable before the same was constructed, a dam, apron, slide, gate, lock, boom or other work necessary to facilitate the floating of timber down the lake or river, or blasts rocks or removes shoals or other impediments from or otherwise improves the floatability of the lake or river, does not have the exclusive right to the use of the lake or river or of the works or improvements, but all persons, subject to the payment of tolls fixed under Part V, have the right during the spring, summer and autumn freshets to float timber down the lake or river and through and over such works and improvements, doing no unnecessary damage. R.S.O. 1950, c. 195, s. 27.

Act to apply whether land patented or not **28.** All the rights conferred by this Part extend and apply to all works and improvements heretofore or hereafter made, on a lake or river, whether the bed of the lake or river has been granted by the Crown or not. R.S.O. 1950, c. 195, s. 28.

29.—(1) Where the course of a river enters or widens into a lake or other considerable body of water, every person using the river for the purpose of floating timber shall provide proper and adequate means by a steam tug or otherwise to move his timber across the lake or body of water with expedition.

Moving timber across lakes, etc.

(2) The Minister may by his order in writing direct the kind of power or appliance that is to be used in moving timber across the lake or body of water from the place of entrance to the outlet.

Minister may order use of power

(3) Every person who contravenes or neglects to obey the terms of such an order is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1950, c. 195, s. 29.

Offence

OBSTRUCTIONS IN LAKES AND RIVERS

30.—(1) Every person who cuts and fells, and the employer of every person who cuts and fells, any tree into a lake or river down which timber is usually floated, or upon such parts of the banks of it as are usually overflowed in the spring, summer or autumn freshets, without lopping off the branches of the tree and cutting up the trunk into lengths of not more than eighteen feet before the tree is allowed to be floated or cast into the lake or river is guilty of an offence and on summary conviction is liable to a fine of not more than \$10.

Fine for not lopping off branches of trees, etc.

(2) Subsection 1 does not apply to timber prepared for transportation to market. R.S.O. 1950, c. 195, s. 30.

Exception

31. Where an officer of the Department finds that any tree, part of a tree, refuse, substance or matter has been thrown or deposited into a lake or river or on the shores or banks thereof in such a manner as in his opinion impairs the natural beauty of the lake or river, he may, if authorized by the Minister to do so, order the person who committed or caused the commission of such act to take such steps within the time specified in the order as are necessary to remove the tree, part of a tree, refuse, substance or matter from the lake or river or from the shores or banks thereof, and any person who fails to comply with any such order is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day that he does not comply with the order. 1955, c. 39, s. 4.

Throwing trees, etc., into lake or river prohibited

32. In sections 33 and 34, "mill" means a plant or works in which logs or wood-bolts are processed, and includes a saw mill, a pulp mill, and a pulp and paper mill. 1953, c. 53, s. 3, *part.*

Interpretation

Prohibition
against
throwing
refuse into
lake or
river, etc.

33.—(1) No person shall throw, deposit or discharge, or permit the throwing, depositing or discharging of, any refuse, sawdust, chemical, substance or matter from any mill into a lake or river, or on the shores or banks thereof.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200.

Non-
compliance
with order

(3) Where an officer of the Department finds that any refuse, sawdust, chemical, substance or matter from a mill is being thrown, deposited or discharged into a lake or river, or on the shores or banks thereof, he may, if authorized by the Minister to do so, order the owner or occupier of the mill to cause such throwing, depositing or discharging to cease, and may order, where in his opinion it is practicable to do so, that such owner or occupier take such steps within the time specified in the order as may be necessary to remove the refuse, sawdust, chemical, substance, or matter from the lake or river or from the shores or banks thereof, and any owner or occupier who fails to comply with any such order is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day that he does not comply with the order. 1953, c. 53, s. 3, *part.*

DISCRETIONARY POWER OF COURT

Discretion of
court as to
granting of
injunction
in certain
cases

34.—(1) Where in an action or proceeding a person claims, and but for this section would be entitled to, an injunction against the owner or occupier of a mill for an injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing, depositing or discharging, or permitting the throwing, depositing or discharging of any refuse, sawdust, chemical, substance or matter from the mill or from it and other mills into a lake or river, or by reason or in consequence of any odour arising from any such refuse, sawdust, chemical, substance or matter so thrown, deposited or discharged or so permitted to be thrown, deposited or discharged, the court or judge may,

- (a) refuse to grant an injunction if it is proved that having regard to all the circumstances and taking into consideration the importance of the operation of the mill to the locality in which it operates and the benefit and advantage, direct and consequential, which the operation of the mill confers on that locality and on the inhabitants of that locality, and weighing the same against the private injury, damage or interference complained of, it is on the whole proper and expedient not to grant the injunction; or

(b) grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as are deemed proper; or

(c) in lieu of granting an injunction, direct that the owner or occupant of the mill take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of as are deemed proper.

(2) Nothing in subsection 1 affects any right of the person claiming the injunction to damages against the owner or occupier of the mill for any such injury, damage or interference. Right to damages not affected

(3) Where damage from the same cause continues, the person entitled to the damages may apply from time to time in the same action or proceeding for the assessment of subsequent damages or for any other relief to which by subsequent events he from time to time becomes entitled. Subsequent damages

(4) This section applies whether the injury, damage or interference is or is not a continuing one, and whether the person claiming the injunction in the action or proceeding is a plaintiff or is a defendant proceeding by way of counterclaim. Application of section
R.S.O. 1950, c. 195, s. 32 (2-5).

PART IV

TIMBER SLIDE COMPANIES

35. In this Part, "works" means a dam, slide, pier, boom or other work constructed or proposed to be constructed in or upon a lake or river in order to facilitate the floating of timber down the lake or river and any improvements made or proposed to be made to the floatability of a lake or river by the blasting of rocks or dredging or the removal of shoals or other impediments or otherwise. R.S.O. 1950, c. 195, s. 33. Interpretation

36. A company may be incorporated under *The Corporations Act* for the purpose of acquiring or constructing and maintaining and operating works upon a lake or river in Ontario, and every such company thereupon becomes subject to this Part. R.S.O. 1950, c. 195, s. 34. Powers to be granted to companies R.S.O. 1960, c. 71

37. The application for the letters patent shall give, Application for letters patent

(a) a detailed description of the works proposed to be undertaken and an estimate of their cost; and

- (b) an estimate from the best available sources of the quantity of different kinds of timber expected to come down the lake or river yearly after the works have been completed. R.S.O. 1950, c. 195, s. 35.

When letters
patent may
be issued

38. The letters patent incorporating a company for any of the purposes mentioned in section 36 shall not be issued until proof has been furnished to the Minister,

- (a) that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking; and
- (b) that notice of the application for the letters patent has been served upon all timber licensees and other persons known to be interested in the works proposed to be constructed,

nor until approval of the proposed work has been obtained under Part I, and the Minister has certified to the Provincial Secretary that, in his opinion, it is proper that they should be issued. R.S.O. 1950, c. 195, s. 36.

Rate of
dividend

39. Letters patent may state a rate of dividend, not exceeding 12 per cent per annum that the company may pay to the shareholders, if the revenues of the company otherwise justify such payment. R.S.O. 1950, c. 195, s. 37, *amended*.

Limitation
of
company's
existence

40. The existence of the company may be limited to a term of years, not exceeding twenty-one, to be fixed by the letters patent. R.S.O. 1950, c. 195, s. 38.

Property
vests in
the Crown
on expira-
tion of
company's
existence

41. Upon the expiration of the period limited for the existence of the company, all the works constructed by it become the property of Her Majesty for the public uses of Ontario, and shall be under the control of the Department and the company, or the shareholders thereof, have no right to compensation therefor. R.S.O. 1950, c. 195, s. 39.

Company's
existence to
continue for
the purpose
of winding
up

42. Notwithstanding the expiration of the period limited for the existence of the company, it shall continue to exist for the purpose of taking such proceedings as may be requisite for winding up and settling its affairs, and for getting in its assets and distributing them among its shareholders, and the company may, for those purposes, sue and be sued as if the period of its corporate existence had not expired, but after such period the words "in liquidation" shall be added to the name of the company and are a part of its name. R.S.O. 1950, c. 195, s. 40.

43. No distribution of capital shall be made under section 42 until three years after the expiration of the period limited for the existence of the company, but this does not prevent the distribution among the shareholders of the annual profits received from investments, and after such three years section 61 of *The Corporations Act* does not apply. R.S.O. 1950, c. 195, s. 41. ^{Distribution of capital and profits}

44. The directors of a company formed under this Part shall annually, in the month of January, make to the Minister a report, verified by the oath of the treasurer of the company, specifying, ^{Yearly report to the Minister}

- (a) the cost of the works;
- (b) the amount of all money expended;
- (c) the amount of the capital stock, and the amount paid in;
- (d) the whole amount of tolls expended on the works;
- (e) the amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;
- (f) the amount of dividends paid;
- (g) the amount expended for repairs;
- (h) the amount of the debts due by the company, stating the objects for which they were respectively incurred; and
- (i) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof. R.S.O. 1950, c. 195, s. 42.

45. The company shall keep proper books of account containing full and true statements of, ^{Books of account}

- (a) its financial transactions;
- (b) its assets;
- (c) the sums received and expended by it and the matters in respect of which the receipt or expenditure took place; and
- (d) its credits and liabilities,

and such books shall be at all times open to the inspection and examination of any shareholder. R.S.O. 1950, c. 195, s. 43.

Rights of
expropria-
tion

46.—(1) The company has the right to expropriate any land, right or easement requisite for the purpose of its undertaking, and the amount of compensation therefor shall be determined by arbitration.

Ascertaining
compen-
sation

(2) In ascertaining the amount of the compensation, due regard shall be had to the benefits that will accrue to the person claiming compensation from the construction of the intended works. R.S.O. 1950, c. 195, s. 44.

Interference
with
property
of others

47. No company formed under this Part shall construct its works over or upon or otherwise interfere with or injure any private property or the property of Her Majesty, without first having obtained the consent of the owner or occupier thereof, or of Her Majesty, except as is provided in this Part. R.S.O. 1950, c. 195, s. 45.

Compensation for
existing
works
taken over

48.—(1) If there is already established by any person, other than a company formed under this Part or under any Act of the Legislature, any works on a lake or river for the improvement of which a company is formed under this Part, such company may with the approval of the Minister take possession of the works, and the owners thereof, or, if the works have been constructed on the property of Her Majesty, the person at whose cost they have been constructed, is entitled to compensation for the value of the works, either in money or in stock of the company, at the option of the owner or the person at whose cost the works were constructed, and may become a shareholder in the company for an amount equal to the value of the works, such value to be ascertained by arbitration.

Formalities
to be
observed by
company
acquiring
existing
works

(2) Where the company purchases or takes possession of the works and does not make or construct any works other than those so acquired, the company shall furnish the Minister with a detailed description of such works and the amount of the purchase price or compensation. R.S.O. 1950, c. 195, s. 46.

Mill sites,
etc., not to
be taken
without
consent of
owner

49.—(1) Nothing in this Act authorizes a company formed under this Part to take possession of or injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber, and no such company shall commence any work that interferes with or endangers such occupied mill site without the consent in writing of the owner, or unless it is determined by arbitration that the proposed works will not injure such mill site.

Registering
consent
or award

(2) The consent or award shall be registered in the same manner as the instrument of incorporation of the company. R.S.O. 1950, c. 195, s. 47.

50.—(1) The company shall, within two years from its incorporation, complete every work undertaken by it and mentioned in the application for the letters patent, and for the completion of which the company is incorporated, in default of which the company is liable to forfeit the right to all the corporate and other powers and authority that it has acquired, and the Attorney General may cause proceedings to be taken in the name of Her Majesty to set aside the charter by serving notice upon the company, and the Lieutenant Governor in Council may, after an opportunity to be heard has been given to the company, declare that its corporate powers cease and determine at a date to be named in the order in council.

Time for
completion
of works

(2) From and after that date, all the corporate powers of the company cease and determine unless, prior to the taking of proceedings by the Attorney General, further time is granted by the Minister or the completion of the works appears to be unnecessary and is dispensed with by him.

Cessor of
corporate
powers

(3) If in the opinion of the Minister the company has abandoned for one year any works completed by it so that the works are not in sufficient repair and cannot be used for the purpose for which they were undertaken, the Minister may by his order in writing declare that the corporate powers of the company cease and determine to the extent set out in the order. R.S.O. 1950, c. 195, s. 48.

Default in
completing
works

51. Any two companies formed for the construction of works on contiguous waters may unite and form one consolidated company on such terms as to them seem meet, and the name of the company to be then assumed shall thenceforth be its corporate name, and letters patent may, subject to the approval of the Minister, be issued to it, and, when issued, the consolidated company may exercise and enjoy all the rights and is subject to all the liabilities of other companies formed under this Part, and which the separate companies had and enjoyed or were subject or liable to before their union. R.S.O. 1950, c. 195, s. 49.

When
companies
may be
united

52. Where the Lieutenant Governor in Council deems it expedient for the public service, he may declare any company formed under this Part dissolved, and may declare all its works to be public works upon payment to it of the then actual value of the works to be determined in accordance with *The Public Works Act*. R.S.O. 1950, c. 195, s. 50.

Where the
Lieutenant
Governor
in council
may declare
a company
dissolved
R.S.O. 1960,
c. 338

53. Where a company incorporated under chapter 153 of the Revised Statutes of Ontario, 1877, or under chapter 68 of the Consolidated Statutes of Canada, 1859, applies for the issue of letters patent under *The Corporations Act*, letters patent may, subject to the approval of the Minister, be issued

Letters
patent may
limit term
of existence
of certain
companies
R.S.O. 1960
c. 71

conferring upon the company any of the powers authorized by this Part, and by such letters patent the term of existence of the company may be limited and the company shall be subject to this Part. R.S.O. 1950, c. 195, s. 51.

Extension
of existence
of company

54.—(1) The term of existence of a company incorporated for a limited period may be extended for such a number of years as the Lieutenant Governor in Council, before the expiry of such period, directs.

Extension of
charter after
expiry of
term of
company's
existence

(2) Where the term of existence of a company incorporated for a limited period has expired but the company has continued to carry on business and it appears to the Lieutenant Governor in Council that the company has acted in good faith, the Lieutenant Governor in Council, notwithstanding the expiry of such period, may, by supplementary letters patent, extend the term of existence of the company as from the date of the expiry, and thereupon the company shall be deemed to have continued in existence from such date and the works constructed by the company shall not be deemed to have become the property of Her Majesty, but to have remained vested in the company for the period named in such supplementary letters patent.

Issue of
supplement-
ary letters
patent for
extensions
or improve-
ments

(3) Where any extension or improvement of the works or any new works proposed to be undertaken are approved by the Minister, supplementary letters patent may be issued authorizing the construction of the extension or improvement or the new works, as the case may be. R.S.O. 1950, c. 195, s. 52.

PART V

TOLLS

Interpre-
tation

55. In this Part,

- (a) "operator" means the owner or occupier of the works;
- (b) "works" means works as defined in Part IV that have been constructed. R.S.O. 1950, c. 195, s. 53.

Right
to tolls

56. The operator may demand and receive the lawful tolls upon all timber passing through or over his works, and shall have free access to such timber for the purpose of measuring or counting it. R.S.O. 1950, c. 195, s. 54.

Publication
of schedule
of tolls

57.—(1) In each year, before the 1st day of March, the operator shall publish once a week for four successive weeks in a newspaper published in the county or district in which the works are situate, a schedule of the tolls proposed to be

charged, together with a notice stating that on a day and hour named he will apply to a judge of such county or district for the approval of such tolls.

(2) Before publishing the schedule of tolls, the operator shall apply to a judge of such county or district to fix the time for the hearing of the application so that it may be inserted in the notice, and the judge shall at the time so fixed hear the application and approve of the schedule of tolls after making such changes therein as he thinks proper.

Time for hearing application

(3) In fixing the tolls, the judge shall have regard to and take into consideration the original cost of the works and improvements, the amount required to maintain them and to cover interest upon the original cost, as well as such other matters as under all the circumstances are deemed just and equitable.

Basis on which tolls to be fixed

(4) The judge may on the hearing require the production of all books of account of the operator for the purpose of ascertaining the state of the affairs of the operator, and may, if he thinks it necessary, appoint some person to inspect such books and make a report to him on the affairs of the operator for the purpose of determining the tolls that should be charged.

Production of books of account

(5) The schedule of tolls as approved by the judge are final and binding and there is no appeal from his decision.

No appeal

(6) If the schedule of tolls is amended, then the tolls as so amended shall be published once a week for two successive weeks in a newspaper published in the county or district in which the works are situate.

Publication of tolls as approved

(7) The operator shall forthwith after the schedule of tolls has been approved by the judge send a copy of it certified by the judge to the Minister so that it may be filed in the Department, and, on failure to do so, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$20.

Copy of tolls to be sent to Department

R.S.O. 1950, c. 195, s. 55.

58.—(1) The operator may demand from the owner of any timber intended to be passed over or through any part of the works, or from the person in charge of the timber, a written statement of the quantity of every kind of timber and of its destination, and of the parts of the works over or through which it is intended to pass, and if no written statement is given when required, or if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, is liable to double toll.

Demanding of owner statement of quantity of timber liable to toll

When false estimate is given as to quantity liable to toll, extra tolls may be collected

(2) If any owner or person in charge of such timber knowingly or wilfully returns a larger quantity than it is his intention to pass over or through the works, the operator is entitled, in addition to any other remedy he may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over or through the works. R.S.O. 1950, c. 195, s. 56.

May sue for tolls

59. If the tolls are not paid on demand, they may be recovered by action. R.S.O. 1950, c. 195, s. 57.

Tolls to be apportioned to the extent of the works used

60. If timber has come through or over part only of the works, the owner of the timber is liable to pay tolls only for such parts of the whole works as he has made use of if, in the schedule of tolls, the works are divided into parts, and if not, to pay such a portion of the whole tolls as the distance the timber has come through or over the works bears to the whole distance for which the works extend. R.S.O. 1950, c. 195, s. 58.

Lien of operator for tolls

61.—(1) The operator has a lien upon the timber passing through or over the works for the amount of the tolls, ranking next after the lien of the Crown for dues in respect of the timber.

Seizure of timber for tolls

(2) If the tolls are not paid, any justice of the peace having jurisdiction within or adjoining the locality in which the works are situate, upon the oath of the operator or of his agent being made that the just tolls have not been paid, shall issue a warrant for the seizure of the timber or so much of it as he deems sufficient to satisfy the tolls.

Warrant to seize and proceedings thereon

(3) The warrant may be directed to any constable or to any person sworn as a special constable for that purpose at the discretion of the justice, and it shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date of the warrant, to sell the timber subject to any lien of the Crown for dues, and out of the proceeds to pay the tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner.

When warrant not to be issued

(4) A warrant shall not be issued after the expiration of one month from the time of the passage of the timber through or over any of the works. R.S.O. 1950, c. 195, s. 59.

Rules by operator

62.—(1) The operator may make rules for regulating the safe and orderly floating of timber over or through the works, but no such rules have any force or effect until approved by the Minister who may alter or amend them before giving his approval, and the Minister may revoke and cancel any rules

so made and approved, and from time to time approve of new rules which the operator may make.

(2) Every person who resists or impedes the operator or any of his servants in the floating of timber through or over any such works, or in carrying out any such rules or resists him or his servants who may require access to any timber to ascertain the just tolls thereon, or in any way molests him or his servants in the exercise of any rights conferred upon them by this Part, is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10.

(3) In any prosecution under this section, the summons may be served either personally or by leaving a copy of it at the usual place of abode of the person named in it or with any adult person belonging to the raft to which the person named is attached.

(4) The fines when collected shall be paid to the operator for his own use. R.S.O. 1950, c. 195, s. 60.

PART VI

DRIVING OF TIMBER

63. Any person putting or causing to be put timber into any water for the purpose of floating it in, upon or down the water shall make adequate provision and put on a sufficient force of men to break, and shall make all reasonable endeavours to break, jams of the timber and clear the timber from the banks and shores of the water with reasonable dispatch, and shall run and drive the timber so as not unnecessarily to delay or hinder the removal, floating, running or driving of other timber or unnecessarily to obstruct the floating or navigation of the water. R.S.O. 1950, c. 195, s. 61.

64. If any person neglects to comply with section 63, it is lawful for any other person desiring to float, run or drive timber in, upon or down such water, and whose timber would be obstructed by such jams, to cause them to be broken and the timber to be cleared from the banks and shores of the water, and to be floated, run and driven in, upon or down the water. R.S.O. 1950, c. 195, s. 62.

65.—(1) The person who causes the jams to be broken or timber to be cleared, floated, run or driven, pursuant to section 64, shall do it with reasonable economy and dispatch, and shall take reasonable care not to leave timber on the banks or shores, and he has a lien upon the timber in the jams or

upon the timber so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of the timber, and may take and keep possession of it or so much thereof as is reasonably necessary to satisfy the amount of such charges and expenses pending the determination thereof by arbitration.

Idem

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place.

Notifying owner

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such charges and expenses, possession of the timber shall be given up. R.S.O. 1950, c. 195, s. 63.

Provision when timber of several owners cannot conveniently be separated

66. When timber of any person upon or in any water or the banks or shores of the water are so intermixed with timber of another person that it cannot be conveniently separated for the purpose of being floated in, upon or down the water, the several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to break jams of the intermixed timber, and to clear it from the banks and shores of the water with reasonable dispatch, and to float, run and drive it in, upon or down the water, and the costs and expenses thereof shall be borne by the parties in such proportions as they agree upon, and, in default of agreement, as are determined by arbitration. R.S.O. 1950, c. 195, s. 64.

Provision when owner of any portion of timber is in default

67. If any person neglects to comply with section 66, it is lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency and break jams of the intermixed timber and to clear it from the banks and shores of the water, and to float, run and drive all the intermixed timber in, upon or down the water. R.S.O. 1950, c. 195, s. 65.

Duty and lien of person supplying deficiency

68.—(1) The person supplying such deficiency and causing such jams to be broken, or such intermixed timber to be cleared, floated, run or driven, pursuant to section 67, shall do it with reasonable economy and dispatch, and shall take reasonable care not to leave timber on the banks or shores, and he has a lien upon the timber owned or controlled by the person guilty of such neglect for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming, and keeping possession of such

intermixed timber, and may take and keep possession of such timber or so much thereof as is reasonably necessary to satisfy the amount of such fair proportion of such charges and expenses pending the determination of the amount by arbitration.

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place. Duty of holder

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such proportion of charges and expenses, possession of the timber shall be given up. Notifying owner R.S.O. 1950, c. 195, s. 66.

69. Where timber of any person upon or in any water or the banks or shores of the water is intermixed with timber of another person, any of the persons whose timber is intermixed may at any time during the drive require his timber to be separated from the other timber at some suitable and convenient place, and after such separation he shall secure his timber at his own cost and expense in such manner as to allow free passage for the other timber, but when any timber reaches its place of original destination, if known, so intermixed, it shall be there separated from the other timber, and after such separation each owner shall secure his timber at his own cost and expense. Right of owner to separation of timber R.S.O. 1950, c. 195, s. 67.

70. The several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to make the separation, and the cost and expense of such separation shall be borne by the parties in such proportions as they agree upon, and, in default of agreement, as are determined by arbitration. Expenses of separation to be shared R.S.O. 1950, c. 195, s. 68.

71.—(1) If any person neglects to comply with section 70, it is lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency, and the timber owned or controlled by the person guilty of such neglect is subject to a lien in favour of the person supplying the deficiency for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of such timber or so much thereof as is reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending determination of the amount by arbitration. When owner does not provide for his share of work

Duty of holder

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place.

Notifying owner

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such proportion of charges and expenses, possession of the timber shall be given up. R.S.O. 1950, c. 195, s. 69.

Form of security

72. The security referred to in sections 65, 68 and 71 may be by bond (Form 1) or by deposit of money, or in such other way as the parties agree upon. R.S.O. 1950, c. 195, s. 70.

Damages when timber wrongfully detained

73. If it is determined by arbitration that any person acting under the assumed authority of this Part has without just cause taken possession of or detained or caused to be taken possession of or detained timber of another person, or has after offer of security that the arbitrator thinks should have been accepted, detained such timber, or has through want of reasonable care left timber of another person on the banks or shores of a lake or river, or has taken timber of another person beyond the place of its original destination contrary to sections 65, 68 and 71, such first-mentioned person shall pay to such last-mentioned person such damages as the arbitrator determines. R.S.O. 1950, c. 195, s. 71.

Lien under ss. 65, 68 and 71, subject to lien for tolls

74. The lien given by sections 65, 68 and 71 is subject to the lien, if any, of any person for tolls for the use of any works or improvements made use of in running or driving timber. R.S.O. 1950, c. 195, s. 72.

Rights of Crown not affected

75. Nothing in this Part affects the lien or rights of the Crown upon or in respect of any timber. R.S.O. 1950, c. 195, s. 73.

Arbitration

76. All claims, disputes and differences arising from any act or omission under this Part or by reason of failure to perform any duty or obligation imposed by this Part shall be determined by arbitration and not by action. R.S.O. 1950, c. 195, s. 74.

Notice of claim

77. The person claiming that another person has not complied with this Part, or claiming payment of any charges or expenses under this Part, or claiming a lien upon any timber, or claiming damages under section 73, shall give to such other person notice in writing stating the substance and amount of the claims made. R.S.O. 1950, c. 195, s. 75.

78. The person on whom a claim is made, at any time before the arbitration is entered upon or with leave of the arbitrator during the arbitration, may give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Part that such person may have against the claimant, and such counterclaim, unless barred under section 81, shall be determined in the arbitration. R.S.O. 1950, c. 195, s. 76.

79.—(1) The person having a lien upon timber by virtue of this Part may with the approval of the arbitrator sell the timber or a sufficient part thereof in order to realize the amount of the lien, and of the costs, charges and expenses connected with the sale.

(2) The arbitrator shall determine either by the award or by a separate document the time, place and manner of the sale, and may from time to time give directions in writing respecting the sale and the realization of the lien and of the costs, charges and expenses connected therewith. R.S.O. 1950, c. 195, s. 77.

80. The award and directions in writing of the arbitrator are final and binding and are not subject to appeal. R.S.O. 1950, c. 195, s. 78.

81.—(1) All claims arising under this Part shall be made within one year after they have arisen, otherwise they shall be barred, but in the event of such claims arising between the same parties in two successive seasons, they shall be so made within one year after the last of such claims has arisen.

(2) Where a claim is submitted to arbitration and a counterclaim is set up, the counterclaim shall be deemed to have been brought at the date of the service of the claim. R.S.O. 1950, c. 195, s. 79.

82. The Lieutenant Governor in Council may from time to time declare that any part of Ontario or any water therein is, until further declaration, exempt from the operation of this Part, and thereupon the same is exempt accordingly. R.S.O. 1950, c. 195, s. 80.

83. Any part of Ontario or any water exempted by declaration from the operation of this Part may, by declaration, be again brought within its operation until further declaration, and so on from time to time. R.S.O. 1950, c. 195, s. 81.

PART VII

WATER PRIVILEGES

Application **84.** This Part is subject to Parts I and II. R.S.O. 1950, c. 195, s. 82.

**Interpre-
tation** **85.** In this Part, "occupied water privilege" means a mill privilege, or water power, that has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are *bona fide* in course of construction. R.S.O. 1950, c. 195, s. 83.

**Protection
of occupied
water
privilege** **86.** Subject to section 91, an occupied water privilege shall not be in any manner interfered with or encroached upon under the authority of this Part without the consent of the owner. R.S.O. 1950, c. 195, s. 84.

**Right of
owner of
water
privilege to
enter on and
survey lands** **87.**—(1) A person desiring to use or improve a water privilege, of which or a part of which he is the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes by erecting a dam and creating a pond of water, increasing the head of water in any existing pond or extending its area, diverting the waters of any stream, pond or lake into any other channel, constructing any raceway or other erection or work that he requires in connection with the improvement and use of the privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection or work, or any part thereof, may enter upon any land that he deems necessary to be examined and to make an examination and survey thereof, doing no unnecessary damage and making compensation for any actual damage done.

**Acquisition
of lands
for water
privilege** (2) If, upon an application to a judge of the county or district court, as hereinafter provided, such person obtains authority, he may take, acquire, hold and use such parts of the land so examined or such rights over or in respect thereof as the judge deems necessary for the completion, improvement or maintenance of the water privilege and works in connection therewith.

**Trans-
mission line** (3) The building of a transmission line for the transmission of electrical power or energy generated by an occupied water privilege shall be deemed to be a use or improvement of a water privilege within the meaning of this section. R.S.O. 1950, c. 195, s. 85.

88.—(1) A person desiring to exercise the powers mentioned in section 87, or any of them, shall cause, Proceedings

- (a) surveys and levels to be made and taken of the land sought to be taken, used or otherwise affected, and a map or plan thereof to be prepared;
- (b) a statement to be prepared giving,
 - (i) a general description of the land to be taken and of the powers intended to be exercised with regard to any land, describing it,
 - (ii) the names of the owners and occupiers of the land, so far as they can be ascertained, and
 - (iii) everything necessary for the right understanding of the map or plan, including a registrar's certified abstract of the titles to all the land to be affected by the application;
- (c) the map or plan and the statement to be filed in the office of the clerk of the county or district court of the county or district in which the land or part thereof is situate.

(2) He may then apply to the judge of such county or district court for an order empowering him to exercise the powers or such of them as he desires. Application of judge R.S.O. 1950, c. 195, s. 86.

89. In addition to any other notice that the judge directs to be given, public notice of the application, stating the time and place when and where it is to be heard, shall be inserted for such period as the judge directs in a newspaper published in the county or district or one of the counties or districts in which the proposed works are to be constructed or any of the land affected is situate. Public notice of application R.S.O. 1950, c. 195, s. 87.

90. If the judge is of the opinion that the allowance of the application in whole or in part is in the public interest and is proper and just under all the circumstances of the case, he may make an order empowering the applicant to exercise such of the powers as the judge deems expedient, for such time and on such terms and conditions as he determines, and the land affected shall be described in the order. Order, when deemed proper and just R.S.O. 1950, c. 195, s. 88.

91. Where evidence is produced that satisfies the judge that the owner of a water privilege which has been but is not then in use for any of the purposes mentioned in subsection 1 of section 87 is holding it with the intention of again using it for mechanical, manufacturing, milling or hydraulic purposes, the judge may make an order fixing the time within which the Order as to privilege not in actual use

necessary works for the actual use of such water privilege shall be constructed and actually used, and, unless such evidence is produced or the terms of such order are complied with, the water privilege shall not be deemed to be an occupied water privilege within the meaning of this Part. R.S.O. 1950, c. 195, s. 89.

Case of two
or more
claimants

92. Where two or more persons claim to exercise the powers conferred by this Part in respect of the same water privilege, or any part thereof, the judge may impose such terms as he deems just, and may also limit a time within which the person whose application he allows shall construct the necessary works and actually use such water privilege. R.S.O. 1950, c. 195, s. 90.

Limit of
size of
ponds

93. No pond shall be authorized to be made or enlarged so as to exceed twenty acres in extent, unless the judge for special reasons otherwise directs. R.S.O. 1950, c. 195, s. 91.

What to be
stated in
order

94.—(1) The judge shall in the order state the height to which the water may be raised and fix the extent of the pond.

Compensation for
injury

(2) The judge shall also assess the sum to be paid as the value of the land to be taken or used or of the powers to be exercised, and the damages, if any, to be paid as compensation by the applicant for any injury that may be occasioned by the proposed works, and may make such order as to costs as he deems just.

Costs

(3) The costs shall be the same as in ordinary proceedings in the county court and shall be taxed by the clerk. R.S.O. 1950, c. 195, s. 92.

Payment of
amount
awarded

95.—(1) The sums so assessed and the costs shall be paid to the persons entitled thereto or into the Supreme Court as the judge directs before the powers or any of them are exercised and within sixty days after the order is made.

Enforcing or
setting aside
order
R.S.O. 1960,
c. 196

(2) If the same are not so paid, the order may be enforced under *The Judges' Orders Enforcement Act*, or, at the option of any of the persons entitled to receive a sum so assessed, may, on application to the judge, be set aside and vacated as to him, and in such case the judge may make such order as to the costs of the proceedings and of the application as he deems just. R.S.O. 1950, c. 195, s. 93.

Conveyance
of land

96. Upon the payment of the sums assessed and costs, the applicant is entitled to a conveyance, to be settled by the judge in case of a dispute, of the land or rights mentioned in the order in respect of which payment is so made, and is further

entitled to have and exercise such of the powers mentioned in section 87 as he is authorized by the order to exercise. R.S.O. 1950, c. 195, s. 94.

97. For the purpose of registration, the order shall be deemed a judgment of the court to which the judge belongs. ^{Registration of judge's order} R.S.O. 1950, c. 195, s. 95.

98. The judge has all the powers possessed by him or by a county or district court in an action. ^{Judge's powers} R.S.O. 1950, c. 195, s. 96.

99. The judge is entitled for his services to the like fees as are allowed to arbitrators. ^{Judge's fees} R.S.O. 1950, c. 195, s. 97.

100.—(1) By leave of a judge of the Supreme Court, an appeal lies to the Court of Appeal from the order of the judge on any application under this Part. ^{Appeal from county judge}

(2) On such appeal the decision of the judge upon questions of fact and all other questions are open to review. ^{Review of decision}

(3) The application for leave to appeal shall be made within ten days from the day on which the order appealed from was made, or within such further time as a judge of the Supreme Court allows. ^{Application for leave to appeal}

(4) The judge to whom the application is made shall determine the time within which the appeal shall be set down to be heard, the persons upon whom notice of the appeal shall be served, and all such other matters as he deems necessary for the most speedy and least expensive determination of the appeal. ^{Terms}

(5) If the appeal is not set down to be heard within the time limited, or if any other condition imposed is not complied with, the appeal shall, unless otherwise ordered by a judge of the Supreme Court, be deemed to have been abandoned. ^{Effect of non-compliance with conditions of appeal}

(6) The practice and procedure upon the appeal, except so far as is in this section, or by the judge to whom the application for leave is made, otherwise provided, shall be the same as upon an appeal from a county court. ^{Practice on appeal} R.S.O. 1950, c. 195, s. 98.

FORM 1

(Section 72)

Know all men by these presents that we (*here insert names of obligors, being the owner of the timber and at least one sufficient surety or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties*)..... are held and firmly bound unto *A. B.* (*here insert the name of the person claiming the lien*) in the penal sum of (*double the amount of the claim*) \$..... to be paid to the said *A. B.* his executors, administrators and assigns for which payment well and truly to be made we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this....., 19.....

Whereas the said *A. B.* claiming to act under Part VI of *The Lakes and Rivers Improvement Act* has taken possession of certain (timber) owned or controlled by..... and claims a lien thereon for the sum of \$....., under section 65, 68 or 71 (*as the case may be*) of the said Act.

And whereas this bond is given as security for payment to the said *A. B.*, of such sum as he may be held entitled to by arbitration pursuant to the said Act, and of any costs and expenses of the arbitration that may become payable to him.

Now the condition of the above obligation is such that if the said....., his executors or administrators to pay to the said *A. B.*, his executors, administrators or assigns, such sum as is determined by arbitration pursuant to the said Act to be payable to the said *A. B.*, his executors, administrators or assigns for charges and expenses, and also such sum as become payable to the said *A. B.*, his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

C. D. (SEAL)

F. G. (SEAL)

Signed, sealed and delivered }
in the presence of X.Y. }

R.S.O. 1950, c. 195, Form 1.

CHAPTER 204

The Land Titles Act

PART I

PRELIMINARY

1. In this Act,

Interpre-
tation

- (a) "court" means the Supreme Court;
- (b) "duplicate plan" means a true copy of a plan that is prepared in accordance with the regulations;
- (c) "Inspector" means the Inspector of Legal Offices appointed under *The Judicature Act*; R.S.O. 1960,
c. 197
- (d) "lot" includes a block, reserve and any other delineation of land on a plan;
- (e) "mounted duplicate plan" means a true copy of a plan that is prepared and mounted in accordance with the regulations;
- (f) "owner" means an owner in fee simple;
- (g) "plan" means a plan that is drawn in accordance with the regulations;
- (h) "prescribed" means prescribed by this Act or by the rules;
- (i) "proper master of titles" means the master of titles or local master of titles in whose office the land affected or intended to be affected by any proceeding, instrument or document is or may be registered;
- (j) "registered" means registered under this Act;
- (k) "regulations" means the code of standards and procedure laid down by the rules;
- (l) "rules" means the rules made under this Act. R.S.O. 1950, c. 197, s. 1; 1958, c. 49, s. 6, *part, amended*.

PART II

ORGANIZATION AND ADMINISTRATION

APPLICATION OF ACT

Application
of Act

2. Subject to section 3, this Act applies only to the County of York, including The Municipality of Metropolitan Toronto; the County of Elgin, including the City of St. Thomas; the County of Ontario; the County of Carleton, including the City of Ottawa; the County of Lincoln, including the City of St. Catharines; the United Counties of Prescott and Russell; the County of Halton, and the provisional judicial districts, but the land registries heretofore established for such cities, counties and districts are continued. 1960, c. 56, s. 1, *amended*.

Adoption of
Act by
municipality

3.—(1) The council of a county or city or of a town separated from the county for municipal purposes may pass a by-law declaring it expedient that this Act be extended to the county, city or town. R.S.O. 1950, c. 197, s. 150 (1).

Accom-
modation

(2) The corporations of the County of York and The Municipality of Metropolitan Toronto and of every county, city and town that has passed or passes a by-law under subsection 1 or a predecessor thereof shall provide proper fireproof and other accommodation for an office of land titles, and, so far as the expenses of the office are not covered by the fees collected thereat, the corporation shall pay the same, including the salaries of the master of titles of the locality and his staff, and all necessary and proper books, stationery, furniture, and lighting, cleaning and heating of the office, and other matters and things incident to the proper conduct of the business of the office. R.S.O. 1950, c. 197, s. 150 (2); 1960, c. 56, s. 22 (1), *amended*.

Where
county
includes
city or
separated
town
R.S.O. 1960,
c. 249

(3) Where this Act is extended to a county that includes a city or a town separated from the county for municipal purposes, the city or town and county shall share the expenses to be borne by the locality under this Act and, where the councils interested do not agree in respect thereto, in such proportions as are determined by arbitration under *The Municipal Act*.

Proclama-
tion extend-
ing Act to
municipality

(4) Where such a by-law has been passed and proper accommodation has been provided either in connection with the registry office or at some other convenient place to the satisfaction of the Inspector and approved by the Lieutenant Governor in Council, the Lieutenant Governor may, by his

proclamation, extend the operation of this Act to such county, city or town from a day to be named in the proclamation.

(5) The fact of the conditions precedent to the issue of such proclamation having been performed is conclusively established by the issue of the proclamation. R.S.O. 1950, c. 197, s. 150 (3-5). Effect of proclamation

4.—(1) Where not fewer than twenty ratepayers of a county in which is situate a city or a town to which this Act has been extended, who are owners of land situate in such county of the aggregate assessed value of \$400,000, petition the Lieutenant Governor in Council for the issue of a proclamation extending this Act to the county, and the Lieutenant Governor in Council declares that it is expedient that this Act should be so extended, section 3 applies to such county as fully as it would have been applicable had a by-law been passed by the council of the county. Extension of application of Act on petition of owners

(2) In the cases provided for by subsection 1, the local master of titles is not entitled to be paid a salary, unless the county council passes a resolution for the payment to him of a salary to be provided by the county, but he is entitled to retain for his own use the fees collected upon proceedings in his office. Master's compensation

(3) All costs and expenses incurred in introducing the land titles system into the county, or incurred during one year thereafter in connection therewith, shall be paid by the petitioners. Expenses of introduction of system

(4) The owners of land that is assessed as land of non-residents shall be deemed ratepayers within the meaning of this section. R.S.O. 1950, c. 197, s. 151, *amended*. Non-resident owners to be deemed ratepayers

5.—(1) Where this Act applies to a county, city or town entitled to receive money under section 109 of *The Registry Act*, the registrar shall pay to the Treasurer of Ontario, to be applied, so far as necessary, in defraying the salary of the proper master of titles and other expenses of the office, the money payable either directly or indirectly to the county, city or town under that Act, and the Treasurer shall pay the balance to the county, city or town, and, if the amount so paid to the Treasurer is not sufficient, the residue or, if nothing is payable by the registrar, the whole of such salary and expenses shall be made good to the Province of Ontario by the corporation of the county, city or town. Surplus fees under R.S.O. 1960, c. 348 to be applied in defraying expenses of land titles office

(2) Where the fees collected in any such office exceed the expenses thereof, the Treasurer of Ontario shall pay over to the corporation or corporations that would have been liable to make up a deficit, the amount of such excess. R.S.O. 1950, c. 197, s. 152, *amended*. Surplus after payment of expenses of office to be paid to municipality

Appoint-
ment of
local
masters

(3) Subject to subsection 1 of section 12, the Lieutenant Governor in Council may appoint a master of titles for any locality in which this Act is in force to be styled "The Local Master of Titles" for the county, city, town or district, as the case may be, who shall hold office during pleasure.

Salary

(4) The local master of titles shall be paid by salary or fees for his services in that capacity, such salary to be fixed by order of the Lieutenant Governor in Council from time to time with reference to the amount or probable amount of the business on the report of the Inspector, and shall be paid for his services in entering patents under sections 35 to 38 such sum as the Lieutenant Governor in Council directs.

Order to be
laid before
Assembly
R.S.O. 1960,
c. 197

(5) Every such order shall be laid before the Assembly as provided in respect of orders in council under section 102 of *The Judicature Act*.

Commuta-
tion of fees

(6) The Lieutenant Governor in Council may commute the fees payable to a registrar of deeds or local master of titles in any county or district whether both offices are held by one officer or otherwise for a fixed sum each year, but such sum shall not exceed the income that such registrar or local master of titles would have derived from fees during such year, and the fees so commuted shall, on or before the 15th day of January in each year, be paid over to the Treasurer of Ontario, in the case of a district, for the use of the Province, and, in the case of a county or city, is subject to such division between the county or city and the Province as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 197, s. 153 (2, 4-6).

OFFICERS, ETC.

Duties of
Inspector

R.S.O. 1960,
c. 348

6. Subject to this Act and to the rules, the Inspector has under this Act similar powers and duties as he has under section 121 of *The Registry Act*, other than clause *h* thereof, and such other duties as he is required to perform by the Lieutenant Governor in Council. 1956, c. 38, s. 17.

Director of
titles

7.—(1) The Lieutenant Governor in Council may appoint a barrister or solicitor of not less than ten years standing to be the director of titles.

Deputy
director of
titles

(2) The Lieutenant Governor in Council may appoint a barrister or solicitor of not less than five years standing to be the deputy of the director of titles, and the person so appointed shall act under the supervision of the director or shall act as director in the absence of the director and, when acting as director in the absence of the director, he has all the powers of the director.

(3) When the director of titles dies or resigns, the deputy director of titles shall act as director until a director is appointed. 1956, c. 38, s. 2. Death or resignation of director of titles

(4) The Lieutenant Governor in Council may appoint one or more assistant deputy directors of titles for the purposes of this Act. 1958, c. 49, s. 1. Assistant deputy directors of titles

(5) The director of titles may designate one or more persons on the staff of his office or any land titles office as signing officers who shall act under the authority of the director to complete the registration of instruments and authenticate certificates under this Act. 1960, c. 56, s. 21. Signing officers

8.—(1) This Act shall be administered by the director of titles who shall supervise and determine all matters relating to titles of land to which this Act applies. 1960, c. 56, s. 25 (1). Administration of Act

(2) In addition to the duties prescribed by subsection 1, the director of titles shall perform such duties as are prescribed by the rules. 1956, c. 38, s. 16, *part.* Idem

(3) The director of titles shall have a seal of office in such form as the Lieutenant Governor in Council approves. 1958, c. 49, s. 10. Seal

(4) Where under this Act the proper master of titles is authorized to hear and determine any matter, the matter may be determined by the director of titles at a hearing upon the request or consent of the proper master of titles. Hearing before director

(5) A hearing before the director of titles under subsection 4 may be held at the local land titles office or at the office of the director of titles, regard being had to the circumstances of the case. Place for hearing

(6) Notices of a hearing to be held by the director of titles may be served or caused to be served by the director of titles or by the proper master of titles. Notices of hearing

(7) Any action or duty authorized or prescribed by this Act to be performed by a proper master of titles may, in the absence of or with the consent of the proper master of titles, be performed by the director of titles, the deputy director of titles or by an assistant deputy director of titles, if so authorized by the director of titles. 1960, c. 56, s. 25 (2). Authority of director, deputy director, etc.

9.—(1) The land titles office for the County of York shall be conducted by an officer to be called the master of titles, who shall be a barrister of not less than ten years standing and who shall be appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 197, s. 4 (1), *amended.* Master of titles to conduct York County office

Senior
deputy
master of
titles

(2) The Lieutenant Governor in Council may appoint a person, being a barrister or solicitor of not less than five years standing, to be the senior deputy of the master of titles, and the person so appointed shall act under the supervision of the master of titles or shall act as master of titles in the absence of the master of titles, and, when acting in the absence of the master of titles, he has all the powers of the master of titles.

Deputy
master of
titles

(3) The Lieutenant Governor in Council may appoint a deputy of the master of titles and the person so appointed shall act under the supervision of the master of titles or the senior deputy master of titles or shall act as master of titles in the absence of the master of titles and the senior deputy master of titles, and, when acting in the absence of the master of titles and the senior deputy master of titles, he has all the powers of the master of titles.

Death or
resignation
of master
of titles

(4) When the master of titles dies or resigns, the senior deputy master of titles shall act as master of titles until a master of titles is appointed. 1956, c. 38, s. 1, *amended*.

Appoint-
ment of
deputy
of master
of titles

10.—(1) In the case of the illness or absence of the master of titles or of a local master of titles, or for any other cause, the Lieutenant Governor in Council may appoint a person to act as the deputy *pro tempore* of the master of titles or local master of titles, and such deputy, while so acting, has all the powers of the master of titles or local master of titles for whom he is appointed deputy.

To act from
time to time

(2) A person may be appointed under this section with power to act from time to time.

Until
authority
revoked or
appointment
to office
made

(3) In case of the death of the master of titles, the deputy may act until his authority is revoked or a master of titles is appointed and assumes the duties of his office. R.S.O. 1950, c. 197, s. 140, *amended*.

Examiner
of surveys

11.—(1) The Lieutenant Governor in Council may appoint an Ontario land surveyor of not less than five years standing to be the examiner of surveys who shall perform such duties as the director of titles requires in connection with plans, surveys and descriptions of land under this or any other Act administered by the director of titles.

Assistant
examiners
of surveys

(2) The Lieutenant Governor in Council may appoint one or more Ontario land surveyors of not less than three years standing to be assistant examiners of surveys who shall assist the examiner of surveys in the performance of his duties.

Absence,
etc., of
examiner
of surveys

(3) The assistant examiner of surveys who is senior in appointment to office may, in the event of the illness or absence from office of the examiner of surveys or if the office of

examiner of surveys is vacant, perform all the duties of the examiner of surveys. 1958, c. 49, s. 2.

12.—(1) Where at the time of the issue of a proclamation under section 3 there is a referee of titles under *The Quieting Titles Act* residing in the locality, such referee is *ex officio* the first local master of titles therefor, unless he practises as a barrister or solicitor or is a judge of the county court, and he shall hold the office during the pleasure of the Lieutenant Governor in Council.

Local
masters of
titles,
ex officio
R.S.O. 1960,
c. 340

(2) The person appointed may, in the discretion of the Lieutenant Governor in Council, be a judge of a county or district court, a barrister or a solicitor, whether practising or not, or a registrar or a deputy local master of titles having five years practice in a land titles office.

Qualifica-
tions

(3) Where a registrar or local master of titles holds office for part of a year, he or his executors or administrators are entitled to the just proportion of the commutation of fees payable under subsection 6 of section 5. R.S.O. 1950, c. 197, s. 153 (1, 3, 7), *amended*.

Apportion-
ment of
commuta-
tion

13. The Lieutenant Governor in Council may name one or more barristers to whom the master of titles may refer the examination of the title, in whole or in part, of any land in respect of which an application is made, and the master of titles may act upon the opinion of such referee. R.S.O. 1950, c. 197, s. 22.

Employ-
ment of
counsel for
examina-
tions of titles

14. Before the director of titles, the master of titles or a local master of titles enters upon the duties of his office, he shall furnish security in accordance with *The Public Officers Act*. R.S.O. 1950, c. 197, s. 148; 1956, c. 38, s. 13.

Security

R.S.O. 1960,
c. 326

15. Every officer appointed under this Act, before he enters upon the duties of his office, shall take and subscribe an oath of office that he will faithfully and to the best of his ability perform the duties of his office. R.S.O. 1950, c. 197, s. 147 (1, 2), *amended*.

Oath of
office to be
taken

16.—(1) No officer or clerk appointed under this Act shall act directly or indirectly as the agent of any corporation, society or person investing money and taking securities on land or advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer or carry on or transact within the office any business or occupation other than his duties as such officer or clerk or as holder of some other office under the Government of Ontario. R.S.O. 1950, c. 197, s. 149 (1), *amended*.

Master, etc.,
not to act
as agent
etc., of
investors

Application
of section

(2) This section applies to every local master of titles, but, as applied to him and the officers and clerks in his office, the word "land" means land within the county, city, town or district for which he is local master of titles. R.S.O. 1950, c. 197, s. 149 (2).

Protection
of officers
etc.

17. No officer appointed under this Act and no person acting under his authority or under an order of the court or a rule is liable to any action, suit or proceeding for or in respect of an act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred by this Act or of any such order or rule. R.S.O. 1950, c. 197, s. 103, *amended*.

Seal of
office

18. There shall be a seal for every office of land titles. R.S.O. 1950, c. 197, s. 134.

Office
hours

19. Except on Saturdays and holidays, when they shall be closed, land titles offices shall be kept open from 9:30 a.m. until 4:30 p.m. 1952, c. 49, s. 4, *amended*.

AUTHORITY OF OFFICERS

Authority
and duties
of local
masters
of titles

20. Except where otherwise provided by this Act, every local master of titles, in respect of land situate within the territory for which he is appointed, has all the authority of and shall perform all the duties that, in the County of York, are performed by the master of titles, subject to appeal in the same manner. R.S.O. 1950, c. 197, s. 154.

Depositions
taken before
special
examiners

21.—(1) The director of titles or proper master of titles in an application made to him may act upon depositions or examinations taken before any of the special examiners appointed by the court, who may administer the requisite oath to any person whose deposition or cross-examination the director of titles or proper master of titles has requested such examiner to take, and any such deposition or examination may be taken in shorthand, and any *viva voce* evidence given before the director of titles or proper master of titles may be taken down by a sworn shorthand writer if the examining party so desires.

Directions
to examiner

(2) The director of titles or proper master of titles may name the witnesses to be examined or he may request the examiner to take the examination of all witnesses produced by any named person or of any class of witnesses. R.S.O. 1950, c. 197, s. 137, *amended*.

Power to
summon
witnesses

22.—(1) The director of titles or proper master of titles, by summons under the seal of his office, may require the attendance of all such persons as he thinks fit in an application

made to him and may in the summons require any person to produce for inspection any document, deed, instrument or evidence of title to the production of which the applicant or a trustee for him is entitled.

(2) He may also, by a like summons, require any person having the custody of any map, plan or book made or kept in pursuance of any statute to produce such map, plan or book for his inspection. To require production of plans, books, etc.

(3) He may examine upon oath any person appearing before him, and he may allow to every person summoned by him reasonable charges for his attendance. Examination on oath

(4) Any charges allowed by the director of titles or the proper master of titles under this section shall be deemed to be charges incurred in or about proceedings for registration of land and may be dealt with accordingly. Charges, etc.

(5) If any person disobeys an order of the director of titles or proper master of titles made under this section, the director of titles or proper master of titles may certify such disobedience to the court, and thereupon such person may be punished by the court in the same manner as if the order were the order of the court. Dis-obedience of orders

(6) If any person, after the delivery to him of the summons or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons or to produce any map, deed, instrument, evidence of title, plan, book or other document or to answer upon oath or otherwise such questions as may be lawfully put to him by the director of titles or proper master of titles, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. Non-attendance or refusal to answer questions

(7) No person shall be required to attend in obedience to a summons or to produce documents unless the fees and allowances for his attendance in accordance with the tariff of the court are paid or tendered to him. R.S.O. 1950, c. 197, s. 138, *amended*. Tender of conduct money and fees

23.—(1) Where upon the examination of a title or upon an application with respect to registered land the director of titles or the proper master of titles entertains a doubt as to any matter of law, he may state a case for the opinion of the court and may name the parties to it, and, where he entertains a doubt as to any matter of fact, he may direct an issue to be tried for the purpose of determining such fact. Director or master may state a case for opinion of court, or direct issue

(2) The practice and procedure on and incidental to a case stated or on an issue directed under this section and the right to appeal from the judgment or other determination thereof shall be the same as on a special case or on an issue directed in an action. Practice

Exercise of
powers of

(3) The powers conferred by this section shall not be exercised by a proper master of titles except with the approval of the director of titles. R.S.O. 1950, c. 197, s. 90, *amended*.

Administra-
tion of
oaths

R.S.O. 1960,
c. 348

24. The proper master of titles, or any officer of the office of land titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath for any of the purposes of this Act. R.S.O. 1950, c. 197, s. 136.

Inhibiting
of
registered
dealings

25.—(1) The court, the director of titles or the proper master of titles, upon the application of any person interested made in the prescribed manner in relation to any registered land or charge, after directing such inquiries, if any, to be made and notices given and after hearing such persons as the court, the director of titles or the proper master of titles deems necessary or expedient, may issue an order or make an entry inhibiting for a time or until the occurrence of an event to be named in such order or entry or generally until further order or entry any dealing with registered land or with a registered charge.

Terms, etc.

(2) The court, or the director of titles or the proper master of titles of his own accord and without notice, may make an order or an entry under subsection 1 and may impose any terms or conditions that are deemed just, and may discharge the order or cancel the entry, with or without costs, and generally act in such manner as the justice of the case requires. 1960, c. 56, s. 16.

PART III

JURISDICTION OF THE COURT

Exercise
of
jurisdiction

26. Any jurisdiction of the court under this Act may be exercised by a judge of the court whether sitting in court or in chambers. R.S.O. 1950, c. 197, s. 3.

Costs

27. The court, on any application or in any other matter or proceeding coming before it under this Act, has the like authority in respect of costs as it has in any ordinary proceeding within its jurisdiction. R.S.O. 1950, c. 197, s. 120.

Court order
to be
obeyed

28.—(1) Officers appointed under this Act shall obey the order of any competent court in relation to registered land on being served with the order or a copy thereof. R.S.O. 1950, c. 197, s. 121, *amended*.

(2) Where under an order of the court freehold or leasehold land or a charge is vested in any person, the proper master of titles shall, on due proof of the order, make such entries in the register as are necessary to give effect thereto, but, if any person whose estate is affected by the order is not shown by the order to be a party to the cause or matter in which the order was made, the applicant shall furnish such evidence as is requisite to show that he is bound thereby. R.S.O. 1950, c. 197, s. 71 (6), *amended*. Registration under vesting order

29. Except as provided by subsection 3 of section 162, an appeal lies from any act, order or decision of the director of titles, the master of titles or a local master of titles under this Act to a judge of the High Court and from him to the Court of Appeal. R.S.O. 1950, c. 197, s. 144; 1956, c. 38, s. 12, *amended*. Appeal from director or master

30. Any person affected by an order made under this Act by a judge of the High Court may appeal from him to the Court of Appeal within the prescribed time and, subject to the rules, in like manner as in the case of other appeals to that court. R.S.O. 1950, c. 197, s. 145. Appeal from judge

31.—(1) Where an infant, mentally defective person, mentally incompetent person, person of unsound mind, person absent from Canada or person yet unborn is interested in land in respect of the title to which a question arises, any person interested in the land may apply to the court for a direction that the opinion of the court to which the case is stated under this Act shall be conclusively binding on the infant, mentally defective person, mentally incompetent person, person of unsound mind, person absent from Canada or unborn person. Where persons absent, unborn or under disability interested

(2) The court shall hear the allegations of all parties appearing before it and may disapprove altogether or may approve, either with or without modification, of the directions of the director of titles or of the proper master of titles in respect of any case stated as to the title of land. Powers of court on stated case

(3) The court may also, if necessary, appoint a guardian or other person to appear on behalf of an infant, mentally defective person, mentally incompetent person, person of unsound mind, person absent from Canada or unborn person. Power to appoint guardian etc.

(4) The court, if satisfied that the interests of the person under disability, absent or unborn will be sufficiently represented in any case, shall make an order declaring that all persons, with the exceptions, if any, named in the order, are to be conclusively bound, and thereupon all persons, with such exceptions, are conclusively bound by the decision of the court. R.S.O. 1950, c. 197, s. 91, *amended*. Order where persons absent, unborn or under disability

Power of
court in
action for
specific
performance

32.—(1) Where an action is instituted for the specific performance of a contract relating to registered land or a registered charge, the court having cognizance of the action may by such mode as it deems expedient cause all or any persons who have registered estates or rights in the land or charge, or have entered notices, cautions or inhibitions against the same, to appear in the action and show cause why the contract should not be specifically performed, and the court may direct that an order made by the court in the action is binding on such persons or any of them.

Costs in
action for
specific
performance

(2) All costs awarded to a person so appearing may, if the court so orders, be taxed as between solicitor and client. R.S.O. 1950, c. 197, s. 117.

PART IV

APPLICATION FOR FIRST REGISTRATION

APPLICANTS

Application
for
registration

33.—(1) A person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether or not subject to encumbrances, or a person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether or not subject to encumbrances, may apply to the proper master of titles to be registered under this Act or to have registered in his stead any nominee as owner of the land with an absolute, qualified or possessory title, as the case may be.

Application
by
purchaser

(2) A person who has contracted to buy for his own benefit an estate in fee simple in land, whether or not subject to encumbrances, may also apply if the vendor consents to the application. R.S.O. 1950, c. 197, s. 5 (1, 2).

Trustees,
etc., may
sell by
medium of
registry or
may be
themselves
registered

(3) A person holding land on trust for sale and a trustee, mortgagee or other person having a power of selling land may authorize the purchaser to make an application to be registered as owner with any title with which an owner is authorized to be registered, and may consent to the performance of the contract being conditional on his being so registered, or such a person, except a mortgagee, may himself apply to be registered as owner with the consent of the persons, if any, whose consent is required to the exercise by the applicant of his trust or power of sale.

Application
by a
mortgagee
with a power
of sale

(4) A mortgagee having a power of selling land may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any such title. R.S.O. 1950, c. 197, s. 6 (1, 2).

(5) The Attorney General for Canada or the Attorney General for Ontario may apply in like manner with respect to the title of the Crown to land, and the practice and procedure upon the application shall be the same as in ordinary cases. R.S.O. 1950, c. 197, s. 5 (3). Application by Crown

34.—(1) Where the operation of this Act has been extended to a county, city or town, the council of the county, city or town may pass a by-law authorizing an application to the proper master of titles that any designated area of land in the municipality that has been surveyed by an Ontario land surveyor be registered under this Act. Application by counties, cities and separated towns

(2) For the purpose of an application under subsection 1, the municipality shall be deemed to be the agent of the owners and other persons having an interest in the land designated in the by-law and it is not necessary to obtain the consent of such owners and other persons to the application. 1957, c. 58, s. 6, *part*. No consent required

(3) The costs of and incidental to an application under subsection 1 shall be borne and paid by the municipality making the application and the municipality may recover the same by levy of a special rate of assessment on all parcels included in the application or in the municipality. 1960, c. 56, s. 22 (2). Costs

(4) When an application under subsection 1 is made, the director of titles may by direction designate the land mentioned in the application as a subdivision plan area and thereupon the procedures prescribed by subsections 2 to 9 of section 154 apply *mutatis mutandis*. Judge's plan procedure may be applied

(5) A direction under subsection 4 does not prevent the registration of further dealings with the land until notice has been served in accordance with subsection 4 of section 154. 1958, c. 49, s. 9. Registration not affected

35.—(1) Where land situate in a provisional judicial district is granted by letters patent or by order of the Lieutenant Governor in Council, the letters patent or a certified copy of the order in council shall be forwarded to the local master of titles of the district for the purpose of the grantee being entered as the first registered owner of the land, with any necessary qualifications. Letters patent or order in council granting lands in districts, registration of

(2) Subsection 1 does not apply to land covered with the waters of Lake Huron adjacent to the Great Manitoulin Island, Cockburn Island or Fitzwilliam Island, in the District of Manitoulin, or adjacent to any island that in whole or in part, lies between headland and headland around such three islands. Exemption of certain lands from application of subs. 1

Where
notice of
caution or
adverse
claim un-
necessary

(3) It is not necessary to issue a notice in respect of a caution or adverse claim that has been lodged if, by the certificate of the Minister or Deputy Minister of Lands and Forests, it appears that the claim in respect of which the caution or adverse claim was lodged was considered by the Minister and disposed of before the issue of the patent, and, if before the receipt of such a certificate any proceedings have been taken by a local master of titles in respect of the caution or adverse claim, he shall thereupon discontinue the proceedings and disallow any objection or claim founded thereon and make such order as to costs as he deems just. R.S.O. 1950, c. 197, s. 160 (1-3).

Action by
local
master of
titles

(4) Where there is no contest as to the rights of the parties, the local master of titles may make the requisite entry and issue his certificate, but, in case of a contest, he shall transmit the papers to the director of titles before registering the patentee as owner, and shall otherwise proceed as provided in section 48. R.S.O. 1950, c. 197, s. 160 (4); 1960, c. 56, s. 26 (1).

Where
cautioner
consents

(5) Where the cautioner consents to the registration of the patentee, the local master of titles need not issue a notice on account of the caution. R.S.O. 1950, c. 197, s. 160 (5).

Registration
of Crown
lease-
patents, etc.

(6) Notwithstanding subsection 1 of section 42, letters patent from the Crown demising land or mining rights for a term of years, or for any greater estate, granted on or after the 31st day of December, 1887, shall be deemed to have been and to be within this section. R.S.O. 1950, c. 197, s. 160 (6); 1960, c. 56, s. 26 (2).

Registration
of federal
patentees

36. Where land situate in a provisional judicial district has been patented by the Government of Canada, the proper master of titles has authority to register the patentee as owner of the land and may do so without submitting his finding upon the application to the director of titles for his concurrence. R.S.O. 1950, c. 197, s. 161, *amended*.

Notice by
master to
sheriff

37.—(1) Upon an entry of ownership being made, the proper master of titles, unless the land is free grant or otherwise exempt from execution, shall, in the prescribed form, notify the sheriff in whose bailiwick the land lies of the entry of the patentee as owner.

After what
time entries
may be
made in
register

(2) The notice shall be sent by registered mail and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution.

Action of
sheriff
and proper
master of
titles after
notice

(3) Upon receipt of the notice, the sheriff shall forthwith transmit to the proper master of titles a copy of any execution in his hands affecting the land of the patentee, and, if within the fourteen days no copy of an execution against the land of the patentee is received from the sheriff, the proper master of

titles may assume that the land is not subject to any execution and may enter subsequent dealings with the land accordingly, and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee.

(4) Where the proper master of titles receives from the sheriff a copy of an execution affecting the land, an entry thereof shall be made against the land by the proper master of titles and all dealings with it are subject to the execution. Entry where copy of execution received
R.S.O. 1950, c. 197, s. 162, *amended*.

38.—(1) Where a patent for land is forwarded to a proper master of titles under section 35 and it is made to appear to him that the patentee since the date of the patent has transferred the land to some other person, the transferee or, in case of a further transfer or transfers, the ultimate transferee of the land shall be entered as the first registered owner and shall be described as the transferee of the patentee or otherwise according to the fact. Registration of transferee of patentee

(2) Before entering a transferee as first registered owner, the proper master of titles shall require evidence to be produced showing that there is no execution affecting the land. Evidence of no execution
R.S.O. 1950, c. 197, s. 163, *amended*.

TITLES

39. Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple until the title is approved by the director of titles. Evidence where absolute title required
R.S.O. 1950, c. 197, s. 8, *amended*.

40. Where a possessory title only is required, the applicant or his nominee may be registered as owner of the fee simple on giving such evidence of title and serving such notices, if any, as are prescribed. Evidence where possessory title required
R.S.O. 1950, c. 197, s. 10.

41.—(1) Where on the examination of the title it appears to the proper master of titles that it can be established only for a limited period or subject to certain reservations, the proper master of titles, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register. A qualified title may be registered

(2) A title registered subject to such excepted estate, right or interest shall be called a qualified title. Qualified title

Estate of
owner
registered
with a
qualified
title

(3) The registration of a person as first registered owner with a qualified title has the same effect as the registration of such person with an absolute title except that registration with a qualified title does not affect or prejudice the enforcement of any estate, right or interest appearing by the register to be excepted. R.S.O. 1950, c. 197, s. 12 (1-3).

Register of
leasehold
land

42.—(1) A separate register of leasehold land shall be kept and,

- (a) any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which at least twenty-one are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the part unexpired of the current term to at least twenty-one years, or to a renewal for a life or lives, whether or not subject to encumbrances;
- (b) any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease whether or not subject to encumbrances; or
- (c) any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease whether or not subject to encumbrances,

may apply to the proper master of titles to be registered or to have registered in his stead any nominee as owner or such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held, if, in the case of leasehold land contracted to be bought, the vendor consents to the application.

Registered
lease

(2) Every applicant for registration of leasehold land shall deposit with the proper master of titles the lease in respect of which the application is made or, if the lease is proved to the satisfaction of the proper master of titles to be lost, a copy of the lease or of a counterpart thereof, verified to the satisfaction of the proper master of titles, and such lease or verified copy is in this Act referred to as the registered lease.

Where lease
contains
prohibition
against
alienation

(3) Leasehold land held under a lease containing an absolute prohibition against alienation shall not be registered.

Where
alienation
permitted
by licence

(4) Leasehold land held under a lease containing a prohibition against alienation, without the licence of some other person, shall not be registered until provision is made in the

prescribed manner for preventing alienation, without such licence by entry in the register of a restriction to that effect.

(5) Section 33 applies to leasehold as well as to freehold land. R.S.O. 1950, c. 197, s. 15, *amended*.

Sec. 33 to
apply to
leasehold
land

(6) A person may apply for registration of a leasehold interest under this section where the freehold title out of which his interest is derived is registered under this Act. 1960, c. 56, s. 2.

Leasehold
interests

(7) An applicant or his nominee shall not be registered as owner of leasehold land until the title to the land is approved by the proper master of titles and, if he applies to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, shall not be registered with the declaration until the lessor, after an examination of his title by the proper master of titles, is declared to have had an absolute or qualified title to grant the lease under which the land is held. R.S.O. 1950, c. 197, s. 16.

Evidence of
title
required on
application

EASEMENTS AND MINING RIGHTS

43.—(1) The proper master of titles may register the owner of,

Registration
of easements,
mining
rights

(a) any incorporeal hereditament of freehold tenure enjoyed in gross; or

(b) any mines or minerals where the ownership of the same has been severed from the ownership of the land,

in the same manner and with the same incidents in and with which he is by this Act empowered to register the owner of land, or as near thereto as circumstances admit.

(2) Where an easement in or over unregistered land is granted as appurtenant to registered land, the proper master of titles, after such examination as he deems necessary, may enter the easement in the register of the dominant land with a declaration that the title thereto is absolute, qualified or possessory, or otherwise as the case requires, and shall cause to be registered in the proper registry division a certificate of such entry.

Registration
of easements
when dom-
inant land
registered

(3) Where an easement in or over registered land is granted as appurtenant to unregistered land, the proper master of titles may issue a certificate setting out the easement and the land to which it is appurtenant, which may be registered in the registry division in which the land is situate, and he shall note on the register that such certificate has been issued. R.S.O. 1950, c. 197, s. 95, *amended*.

Certificate
of easement
when dom-
inant land
unregistered

Notice of
easement

(4) Where the existence of an easement is proved, the proper master of titles may, if he thinks fit, enter notice thereof on the register.

Statement of
appurtenant
easement on
certificate,
etc.

(5) Where title is shown to an easement appurtenant to land being registered, the facts may be stated in the entry and certificate of ownership. R.S.O. 1950, c. 197, s. 12 (4, 5), *amended*.

PROCEDURE ON FIRST REGISTRATION

Regulations
as to exami-
nation of
title

44. The examination of a title shall be conducted in the prescribed manner, subject to the following:

1. Where notice has been given, sufficient opportunity shall be afforded to any person desirous of objecting to come in and state his objections to the proper master of titles.
2. The proper master of titles has jurisdiction to hear and determine any such objections, subject to an appeal to the court in the prescribed manner and on the prescribed conditions.
3. If the proper master of titles, upon the examination of any title, is of opinion that it is open to objection but is nevertheless a title the holding under which will not be disturbed, he may approve of it or may require the applicant to apply to the court, upon a statement signed by the proper master of titles, for its sanction to the registration.
4. It is not necessary to produce any evidence that by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser or to produce or account for the originals of registered instruments unless the proper master of titles otherwise directs.
5. The proper master of titles may receive and act upon any evidence that is received in court on a question of title, or any evidence that the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether it is or is not receivable or sufficient in point of strict law, or according to the practice of conveyancers, if it satisfies him of the truth of the facts intended to be made out thereby.
6. The proper master of titles may refer to and act upon not only the evidence adduced before him in the proceeding in which it is adduced but also any evidence adduced before him in any other proceeding wherein the facts to which it relates were or are in question.

R.S.O. 1960,
c. 414

7. The proper master of titles may also act upon his own personal knowledge of material facts affecting the title upon making and filing a report, stating his knowledge of the particular facts and the means he had of obtaining such knowledge. R.S.O. 1950, c. 197, s. 21, *amended*.

45. Where the applicant desires the land to be registered free from the particulars mentioned in paragraphs 1 to 5 of subsection 1 of section 51, or any of them, his application shall so state, and the investigation shall proceed accordingly. R.S.O. 1950, c. 197, s. 24 (1), *amended*.

Where applicant desires title free

46.—(1) Where the applicant desires the land to be registered free from any public highway, a notice so stating shall be published once a week for two successive weeks in a newspaper published in the municipality in which the land lies or, where there is no such newspaper, in one published in a neighbouring municipality, and the notice shall also be served upon the Attorney General and upon the head or the clerk of the council of the municipality in which the land lies.

Notice of applications to have certificate free from highway

(2) If the Attorney General or the corporation of the municipality or any person objects to the land being so registered, the Attorney General, corporation or person may in his objection require that the question of the existence of the highway be tried in the court, and in that case the proper master of titles shall postpone his finding upon that part of the application until the question is finally determined, and shall give such directions as he deems proper in order that an early adjudication thereon may be had.

Trial of right of highway in court

(3) Notwithstanding that the Attorney General, corporation or person objecting has not required the question to be tried in the court, the proper master of titles of his own motion or upon the application of a party may direct that an action be brought or an issue be tried in the court for the determination of the question on such terms and conditions as to costs and otherwise as he deems just.

Master may direct action or issue

(4) Pending the final determination of the question, the proper master of titles may register the applicant as owner, subject to any public highway, and upon the final determination of the question, if it is determined in favour of the applicant, the entry and certificate of ownership shall be varied accordingly. R.S.O. 1950, c. 197, s. 24 (2-5), *amended*.

Registration pending determination and subsequent variation of entry

47.—(1) A person having or claiming such an interest in unregistered land as entitles him to object to any disposition thereof being made without his consent may apply to the

Caution against registration of land

proper master of titles for the registration of a caution to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of the land.

Renewal

(2) Every caution under this section shall be renewed before the expiration of five years from the date of registration of the caution, otherwise it ceases to have effect.

Unpatented land

(3) A caution registered under this section in respect of unpatented land has no validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the patent or describes it in such manner that the proper master of titles may know that the description in the caution is intended to affect the land described in the patent. R.S.O. 1950, c. 197, s. 83, *amended*.

Cautioner entitled to notice of proposed registration of land

(4) After a caution has been registered in respect of unregistered land and while the caution is in force, registration shall not be made of the land until notice has been served on the cautioner to appear and oppose the registration and until the prescribed time has elapsed after the date of the service of the notice, or the cautioner has appeared, whichever first happens. R.S.O. 1950, c. 197, s. 85, *amended*.

Proper master of titles to transmit application to director of titles

48.—(1) If, upon an application for first registration, the proper master of titles finds that the applicant or his nominee is entitled to be registered, he shall sign a memorandum to that effect at the foot of the application and draft entry and shall transmit them to the director of titles, with the deeds, evidence and other papers before him and a draft of the entry of ownership proposed to be made.

Where director of titles concurs

(2) If the director of titles concurs in the memorandum and the draft entry, he shall endorse his approval thereon and return the papers transmitted to him, and the proper master of titles may thereupon register the applicant or his nominee as owner.

Where director of titles does not concur

(3) If the director of titles does not concur in the memorandum and draft entry, he shall communicate his opinion to the proper master of titles and cause such action to be taken as he deems expedient and, if his objections are not removed by explanations or additional evidence, the applicant or his nominee shall not be registered unless the court on appeal, or on a case stated for its opinion, otherwise directs.

Stay of proceedings

(4) If there is a contest upon the decision of the director of titles, registration shall be delayed for ten days to enable anyone who so desires to appeal. R.S.O. 1950, c. 197, s. 155; 1960, c. 56, s. 23, *amended*.

49. Except as provided in subsection 4 of section 35, section 48 does not apply to applications coming within sections 35, 36 and 38, or to applications for possessory titles, or for the registration of leasehold land where the freehold or other estate out of which the lease is derived is registered land, or where a declaration of the title of the lessor to grant the lease is not required. R.S.O. 1950, c. 197, s. 156. Exception to application of s. 48

50.—(1) Where upon an application for first registration the director of titles or the proper master of titles requires to examine any instrument registered in a registry office, the director of titles or the proper master of titles may request the registrar of the registry division in which the land lies to transmit any instrument appearing on the abstract or required in connection with the application that the director of titles or the proper master of titles desires to examine. 1960, c. 56, s. 24. Request of director or master of titles for documents

(2) The registrar, upon payment of his proper fees, shall comply with the request and shall transmit the instruments by registered mail or by express and shall send therewith a list of the instruments transmitted and shall retain a copy of the list. R.S.O. 1950, c. 197, s. 157 (2), *amended*. Duty of registrar

(3) The director of titles or the proper master of titles shall return the instruments as soon as practicable by registered mail or by express, sending therewith to the registrar a list of all the instruments so returned and shall retain a copy of the list. R.S.O. 1950, c. 197, s. 157 (3); 1956, c. 38, s. 14 (2), *amended*. Documents to be returned

(4) In addition to his usual fee for the production of an instrument, the registrar is entitled to an additional fee of 10 cents for each instrument transmitted. R.S.O. 1950, c. 197, s. 157 (4), *amended*. Additional fees to registrar

EFFECT OF FIRST REGISTRATION

51.—(1) All registered land, unless the contrary is expressed on the register, is subject to such of the following liabilities, rights and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed to be encumbrances within the meaning of this Act: Liability of registered land to easements and certain other rights

1. Provincial taxes and succession duties and municipal taxes, charges, rates or assessments, and school or water rates.
2. Any right of way, watercourse, and right of water, and other easements.
3. Any title or lien that, by possession or improvements, the owner or person interested in any adjoining land has acquired to or in respect of the land.

4. Any lease or agreement for a lease, for a period yet to run that does not exceed three years, where there is actual occupation under it.
5. Any right of the wife or husband of the person registered as owner to dower or curtesy, as the case may be, in case of surviving the owner.
6. A mechanic's lien where the time limited for its registration has not expired.
7. Any right of expropriation, access or user, or any other right, conferred upon or reserved to or vested in the Crown by or under the authority of any statute of Canada or Ontario.

8. Any public highway. R.S.O. 1950, c. 197, s. 23 (1), cl. (a-h).

R.S.O. 1960,
c. 171

9. Any liabilities, rights and interests created under section 38 of *The Highway Improvement Act*. 1953, c. 54, s. 1.

R.S.O. 1960,
c. 296

10. Any by-law heretofore passed under section 30 of *The Planning Act* or a predecessor of that section, and any other municipal by-law heretofore or hereafter passed, affecting land that does not directly affect the title to land. 1954, c. 43, s. 1, *amended*.

11. The provisions of *The Planning Act* with respect to any area of subdivision control, but this paragraph does not apply to land in a subdivision plan area under section 154 or in a composite plan under section 155. 1957, c. 58, s. 1.

Effect of
registration
of land upon
timber
licences

(2) Where a licence under *The Crown Timber Act* has been or is granted and the land is registered under this Act, the land shall be deemed to have been and to be subject to the rights of the licensee or his assigns for the current licence year under the licence, and to the rights of Her Majesty in the pine trees under *The Public Lands Act*, without the fact of the land being so subject being expressed in the entry in the register or in the certificate of ownership. R.S.O. 1950, c. 197, s. 23 (3).

R.S.O. 1960,
cc. 83, 324

Estate of
first regis-
tered owner
with
absolute title

52. The first registration of a person as owner of land, in this Act referred to as first registered owner with an absolute title, vests in the person so registered an estate in fee simple in the land, together with all rights, privileges and appurtenances, free from all estates and interests whatsoever, including estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario, but subject to the following:

1. The encumbrances, if any, entered on the register.

2. The liabilities, rights and interests that are declared for the purposes of this Act not to be encumbrances, unless the contrary is expressed on the register.
3. Where the first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, any unregistered estates, rights, interests or equities to which such person may be entitled. R.S.O. 1950, c. 197, s. 9, *amended*.

53.—(1) The registration of a person as first registered owner with a possessory title only does not affect or prejudice the enforcement of any estate, right or interest adverse to or in derogation of the title of the first registered owner, and subsisting or capable of arising at the time of registration of such owner, but otherwise has the same effect as registration of a person with an absolute title.

Estate of first registered owner with possessory title

(2) The registered owner of land with a possessory title only may at any time apply to the proper master of titles to be registered as owner of the land with an absolute or qualified title, but the applicant shall not be so registered until the title is approved by the proper master of titles in the same manner as if the application were for first registration with an absolute or qualified title.

Change from possessory title to absolute or qualified title

(3) After the expiration of ten years from the date of registration of a person as the registered owner with a possessory title only, the then registered owner of the land may, upon payment of the prescribed fees, apply to the proper master of titles to be entered as owner with an absolute or qualified title, and the proper master of titles may, either forthwith or after requiring such evidence to be furnished and notices to be given as he deems expedient, register the applicant as owner in fee simple with an absolute title or qualified title, subject to such encumbrances, if any, as the condition of the title requires. R.S.O. 1950, c. 197, s. 11, *amended*.

Application to be registered as absolute or qualified title after ten years

54. The registration of a person as first registered owner of leasehold land, with a declaration that the lessor had an absolute title to grant the lease under which the land is held, vests in such person the land comprised in the registered lease relating to the land for all the leasehold estate therein described with all implied or expressed rights, privileges and appurtenances, free from all estates and interests whatsoever, including estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario, but subject to the following:

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease

1. All implied and express covenants, obligations and liabilities incident to such leasehold estate.

2. The encumbrances, if any, entered on the register.
3. The liabilities, rights and interests that affect the leasehold estate and that are by this Act declared not to be encumbrances in the case of registered freehold land, unless the contrary is expressed on the register.
4. Where the first registered owner is not entitled for his own benefit to the land registered, then as between himself and any person for whom he holds or claiming under him, any unregistered estates, rights, interests or equities to which such person may be entitled. R.S.O. 1950, c. 197, s. 17, *amended*.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease

55. The registration of a person as first registered owner of leasehold land, without a declaration of the title of the lessor, does not affect or prejudice the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held, but, save as aforesaid, has the same effect as the registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1950, c. 197, s. 18.

Lessor may be declared to have a qualified title to grant lease

56.—(1) Where on the examination of the title of a lessor by the proper master of titles it appears to him that the title of the lessor to grant the lease under which the land is held can be established only for a limited period or subject to certain reservations, the proper master of titles may, by an entry made in the register, except from the effect of registration any estate, right or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register, and the title of a lessor subject to such excepted estate, right or interest shall be deemed to be a qualified title.

Effect of registration

(2) The registration of a person as first registered owner of leasehold land, with a declaration that the lessor had a qualified title to grant the lease under which the land is held, has the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, except that registration with the declaration of a qualified title does not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1950, c. 197, s. 19.

No title by adverse possession, etc.
R.S.O. 1960, c. 214

57.—(1) Notwithstanding any provision of this Act, *The Limitations Act* or any other Act, no title to and no right or interest in land registered under this Act that is adverse to or in derogation of the title of the registered owner shall be

acquired hereafter or be deemed to have been acquired heretofore by any length of possession or by prescription, but this section is not binding upon a judge in respect of any order made by him under section 154. 1958, c. 49, s. 3; 1960, c. 56, s. 3.

(2) This section does not prejudice, as against any person registered as first owner of land with a possessory title only, any adverse claim in respect of length of possession of any other person who was in possession of the land at the time when the registration of the first owner took place. R.S.O. 1950, c. 197, s. 28 (2).

58.—(1) A certificate by the proper master of titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situate, and thereafter *The Registry Act* ceases to apply to the land.

Operation of section

R.S.O. 1960, c. 348, not to apply to land under this Act

(2) The certificate, besides describing the land, shall state the date of the first registration, the number of the parcel and the register in which the land is registered, and the registrar shall in his abstract index enter the number of the parcel and the register as given in the certificate. R.S.O. 1950, c. 197, s. 14.

Particulars to be stated in certificate for registry office

59.—(1) Where land is registered subject to mortgages existing thereon at the time of the first registration, the mortgages shall be noted in the register in the same order as they are registered in the registry office, if such mortgages have been so registered, or the dates of the respective registrations thereof shall be stated, but this shall not be taken as an affirmation that such mortgages rank in the order in which they were registered or in the order in which they are noted.

Land subject to mortgage at time of registration

(2) Abstracts of all instruments dealing with such mortgages shall thereafter be entered in the register, and the entry thereof shall be deemed the registration of the instrument, and the rights of the parties interested or claiming to be interested in any such mortgage so far as it affects land under this Act shall, subject to sections 40, 41, 43, 52, 53 and 86 to 89, be decided under the registry law as if the registrations in the office of land titles had been made under *The Registry Act*. R.S.O. 1950, c. 197, s. 25, *amended*.

Abstracts of instruments

R.S.O. 1960, c. 348

PART V

ASSURANCE FUND

CONSTITUTION OF FUND, ETC.

60.—(1) An assurance fund shall be formed for the indemnity of persons who may be wrongfully deprived of land or some estate or interest therein by reason of the land being

Assurance Fund

brought under this Act, or by reason of some other person being registered as owner through fraud, or by reason of a misdescription, omission or other error in a certificate of ownership of land or of a charge or in an entry on the register.

Constitution
of fund

(2) In order to constitute the Assurance Fund, there is payable on the first registration under this Act of land with an absolute or qualified title, in addition to all other fees, a sum equal to one-fourth of 1 per cent of the value of the land, apart from the buildings or fixtures thereon, and one-tenth of 1 per cent of the value of the buildings and fixtures, and, with a possessory title, one-eighth of 1 per cent of the value of the land, apart from the buildings or fixtures thereon, and one-twentieth of 1 per cent of the value of the buildings and fixtures, and, on the application to change a possessory title to an absolute title, one-eighth of 1 per cent of the value of the land, apart from the value of the buildings and fixtures thereon, and one-twentieth of 1 per cent of the value of the buildings and fixtures, such values to be determined as of the date of the application.

Minimum
contribution

(3) Where the sum to be paid under subsection 2 does not amount to \$1, the amount payable is \$1. R.S.O. 1950, c. 197, s. 127 (1-3).

Maximum
in certain
cases

(4) Where an application is made for first registration of a parcel of unimproved or vacant land and a plan of subdivision is filed therewith and the amount to be paid on such registration as calculated under subsection 2 exceeds \$200, the amount payable is \$200. 1953, c. 54, s. 3.

To be paid
into court
and invested

(5) Subject to the rules, moneys payable under this section shall be paid into court, with the privity of the Accountant of the Supreme Court, and shall be placed to the credit of an account entitled "Assurance Fund under *The Land Titles Act*" and, subject to subsection 6, shall be invested from time to time under the direction of the court, and the interest or income derived therefrom shall be credited to the same account.

To be paid
to Treasurer
of Ontario

(6) All moneys paid under this section and in the court at the credit of the Assurance Fund and all moneys hereafter payable under this section shall, on his demand, be paid to the Treasurer of Ontario.

How money
to be
transmitted

(7) Where the amount to be paid into the Assurance Fund is not more than \$10, no fee is payable for a direction to the bank to receive it and, where it is payable in respect of a proceeding before a local master of titles, the person desiring to pay it may, at his own risk, transmit it by a money order payable to "The Accountant of the Supreme Court at Toronto", by registered mail addressed to the Accountant, together with a requisition in the prescribed form.

(8) Subject to the rules, the value of the land shall be ascertained by the oath of the applicant unless the proper master of titles dispenses therewith. Valuation of land by applicant

(9) Subject to the rules, if the oath of the applicant is dispensed with or if the proper master of titles is not satisfied as to the correctness of the value stated by the oath of the applicant or of any other person, the proper master of titles may require the affidavit or certificate in that behalf of a valuator and the affidavit or certificate is conclusive. Master may obtain valuation

(10) The expense of obtaining such valuation or certificate as allowed by the proper master of titles shall be paid to the proper master of titles by the registered owner before any dealing with the land is registered. Expense of valuation

(11) The proper master of titles may require any applicant for registration to indemnify the Assurance Fund against loss by a bond or covenant to Her Majesty, either with or without sureties, or by such other security as he considers expedient. R.S.O. 1950, c. 197, s. 127 (4-10), *amended*. Indemnity against loss

61.—(1) Where a person taking a transfer or charge of land mentioned in section 64 is of the opinion that a value to be determined under that section would not furnish a fair basis for compensation in case of loss, he may, with the privity of the proper master of titles, pay into court to the credit of the Assurance Fund such further sum as will, with the amount previously paid into the Assurance Fund in respect of the land, make up one-fourth of 1 per cent of the value of the land at the time of making the payment, such value to be determined by section 60. Additional payments into fund by transferee, etc.

(2) Except by special leave of the proper master of titles, no such additional payment shall be made unless it is made within three months after the registration of the transfer or charge under which the person claims. No additional payment without special leave

(3) No such payment affects the valuation of the land where the error that gives the right to compensation was committed before the payment was made. Where error committed

(4) Where an additional payment is made under this section, the proper master of titles shall enter a memorandum of the particulars thereof in the margin of the entry of ownership and shall in such entry show the total amount that has been paid into the fund in respect of the land. R.S.O. 1950, c. 197, s. 130, *amended*. Entry to be made of additional payment

62.—(1) The Treasurer of Ontario, on receipt of the moneys paid to him under subsection 6 of section 60, shall issue to the Accountant of the Supreme Court in trust Ontario Gov- Treasurer to issue stock for sums received from Fund

ernment stock to an amount equal to the sum so received, and the stock shall represent the Assurance Fund and be available for the same purposes.

Conditions
of issue

(2) The stock shall be payable or redeemable at such time and shall be subject to such conditions as to inscription, registration and transfer as the Lieutenant Governor in Council deems advisable, and shall bear interest at the rate of $2\frac{1}{2}$ per cent per annum.

Charge on
Consolidated
Revenue
Fund

(3) The stock, together with the interest thereon, shall be charged upon and paid out of the Consolidated Revenue Fund.

Payment to
persons
entitled

(4) All sums that become payable out of the Assurance Fund shall, to the extent but not exceeding the amount of the Assurance Fund, be paid by the Treasurer of Ontario to the persons entitled thereto out of the Consolidated Revenue Fund on the production of an order of the court or a judge authorizing or directing the payment to be made, or of a certified copy thereof, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant, and the amount thereof shall be reduced accordingly. R.S.O. 1950, c. 197, s. 132.

CLAIMS AGAINST FUND

Remedy of
person
wrongfully
deprived of
land

63.—(1) A person wrongfully deprived of land or of some estate or interest therein, by reason of the land being brought under this Act or by reason of some other person being registered as owner through fraud or by reason of any misdescription, omission or other error in a certificate of ownership or charge, or in an entry on the register, is entitled to recover what is just, by way of compensation or damages, from the person on whose application the erroneous registration was made or who acquired the title through the fraud or error.

Purchaser or
mortgagee in
good faith
for value
not liable

(2) Subsection 1 does not render liable any purchaser or mortgagee in good faith for valuable consideration by reason of the vendor or mortgagor having been registered as owner through fraud or error or having derived title from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise.

Liability of
Fund to
compensate
person
wrongfully
deprived

(3) If the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he is entitled to have the compensation paid out of the Assurance Fund, so far as it is sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived or, in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased.

(4) The liability of the Assurance Fund for compensation and the amount of compensation shall, subject to appeal to a judge of the High Court and from him to the Court of Appeal, be determined by the Inspector, unless the court or the Inspector on application directs some other way of ascertaining and determining them. How compensation to be determined

(5) The costs of the proceedings are in the discretion of the court or Inspector, as the case may be. Costs of proceedings

(6) Any sum paid out of the Assurance Fund may afterwards, for the benefit of the Assurance Fund, be recovered by action in the name of the Inspector from the person on whose application the erroneous registration was made or who acquired the title through the fraud or error or from his estate, and the Inspector's certificate of the payment out of the Assurance Fund is sufficient proof of the debt, but, where the erroneous registration was made or the title acquired by mere error and without fraud, credit shall be given for any sum that such person may have paid into the Assurance Fund in respect of the land. How Assurance Fund to be recouped

(7) Where a registered disposition would be absolutely void if unregistered or where the effect of the error would be to deprive a person of land of which he is in possession or in receipt of the rents and profits, the Inspector may, in the first instance or after a reference to the court, direct the rectification of the register and, in case of the rectification, the person suffering by the rectification is entitled to the compensation provided for by this section. R.S.O. 1950, c. 197, s. 128. Rectification of register

64.—(1) Where a person makes a claim upon the Assurance Fund for compensation in respect of land patented as mining land or in respect of land the chief value of which consists in the ores, mines or minerals therein and it appears that he is entitled to recover in respect of the land or of some interest therein, in determining the amount of compensation to be paid to him the entire value of the land shall not be taken at a greater sum than 800 times the amount of the fees paid into the Assurance Fund in respect of the land, either in the first instance or under section 61. Valuation of mining lands

(2) Where such fees or some part of them were paid into the Assurance Fund in respect of other land in addition to that for which a claim is so made without it appearing what amount was paid in respect of the particular parcel of land with reference to which the claim is made, the fees so paid, or the portion thereof as to which the fact may not appear to be otherwise, shall be deemed to have been paid *pro rata* in accordance with the acreage or other superficial content of the whole parcel or of the various parcels in respect of which the fees were paid. R.S.O. 1950, c. 197, s. 129. Apportionment pro rata

No com-
pensation

65.—(1) No person is entitled to recover out of the Assurance Fund any compensation,

When
person first
registered
could have
conveyed
good title
to purchaser

(a) where the claim is founded upon a right existing at the time of the first registration of the land and the state of the title of the land at that time was such that the person who was first registered, or the person on whose nomination or authorization the registration was made, by a duly registered conveyance could have conferred, as against the claimant, a valid title to a purchaser in good faith for valuable consideration without notice of any defect in the title, and no sufficient caution had been registered and was in force when the application for first registration was made or a patent was forwarded for registration and the proper master of titles had not actual notice of the defect prior to the first registration;

Where
claimant
had notice
of regis-
tration
proceedings

(b) where the claimant, by direction of the proper master of titles or in accordance with the practice of his office, had been served with a notice of the proceedings being had in that office, whether such proceedings were prior or subsequent to first registration, and failed to appear in accordance with the requirements of the notice or if the proper master of titles had adjudicated against him and he had failed to prosecute successfully an appeal against the decision of the proper master of titles; or

Where
claimant's
negligence
has caused
loss

(c) where the claimant has caused or substantially contributed to the loss by his act, neglect or default, and the omission to register a sufficient caution, notice, inhibition or restriction to protect a mortgage by deposit or other equitable interest or any unregistered right, or other equitable interest or any unregistered interest or equity created under section 76 or otherwise shall be deemed neglect within the meaning of this clause. R.S.O. 1950, c. 197, s. 131 (1), *amended*.

Interpre-
tation

(2) In this section, "claimant" includes the person actually making the claim and any person through whom he claims who he alleges was wrongfully deprived of land or of some estate or interest therein. R.S.O. 1950, c. 197, s. 131 (2).

PART VI

PART OWNERS

Registration
of part
owners

66.—(1) Any two or more persons entitled concurrently or successively, or partly in one mode and partly in another, to such estates, rights or interests in land as together make up

such an estate as would, if vested in one person, entitle him to be registered as owner of the land may, subject to the rules respecting the number of persons to be registered in respect of the same land, apply to the proper master of titles to be registered as joint owners in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that an individual owner may be registered.

(2) Where several persons are so registered as owners, the entry may, if the parties so desire, define the estates, rights and interests, other than trust estates, rights and interests, to which the owners are respectively entitled, and such entry may be made either upon first registration or subsequently in case the estates, rights or interests so arise. R.S.O. 1950, c. 197, s. 7 (1, 2). Entry

67.—(1) No person shall be registered as owner of an undivided share in freehold or leasehold land or of a charge apart from the other share or shares. Undivided shares

(2) The share of each owner may be stated and, where the extent of his interest appears on the register or by the statement of his co-owner, he may transfer or charge his share or he may without such statement transfer his share to his co-owner. R.S.O. 1950, c. 197, s. 98. Rights of part owner

68.—(1) A notice of an express, implied or constructive trust shall not be entered on the register or received for registration. Trusts not to be entered

(2) Describing the owner of freehold or leasehold land or of a charge as a trustee, whether the beneficiary or object of the trust is or is not mentioned, shall be deemed not to be a notice of a trust within the meaning of this section, nor shall such description impose upon any person dealing with the owner the duty of making any inquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise, but, subject to the registration of any caution or inhibition, the owner may deal with the land or charge as if such description had not been inserted. Description of owner as a trustee

(3) Where two or more owners are described as trustees, the property shall be held to be vested in them as joint tenants unless the contrary is expressly stated. Owners described as trustees to be joint tenants

(4) Nothing in this section prevents the registration of a charge given for the purpose of securing bonds or debentures of a corporation, but the registration of such a charge is not a guarantee that the proceedings necessary to render the charge valid have been duly taken. R.S.O. 1950, c. 197, s. 97, *amended*. Saving

Nature of
title of
registered
fiduciary
owners

69. Any person registered in the place of a deceased owner or to whom a patent is issued as executor or administrator or in any representative capacity shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law and subject to any unregistered estates, rights, interests or equities subject to which the deceased owner held the same, but otherwise in all respects, and in particular as respects any registered dealings with such land or charge, he shall be in the same position as if he had taken the land or charge under a transfer for a valuable consideration. R.S.O. 1950, c. 197, s. 59.

Transfers to
trustees
under
R.S.O. 1960,
c. 351

70. Where registered land is transferred to trustees under *The Religious Institutions Act*, the trustees shall be registered as owners in the usual manner and by their corporate name without setting out the purposes or trusts on which the land is held. R.S.O. 1950, c. 197, s. 40, *amended*.

Married
woman
deemed
feme sole

71. A married woman shall for the purposes of this Act be deemed a *feme sole*. R.S.O. 1950, c. 197, s. 105, *part*.

Special
entry in
certain cases

72.—(1) Upon the registration of two or more persons as owners of the same land or of the same charge, an entry may, with their consent, be made on the register to the effect that, when the number of such owners is reduced below a certain specified number, no registered disposition of the land or charge shall be made except under the order of the court.

No sur-
vivorship

(2) In such a case, the words "No Survivorship" in the entry mean that, if any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the court. R.S.O. 1950, c. 197, s. 99 (2, 3).

PART VII

SUBSEQUENT REGISTRATIONS

GENERAL

Right of
transferees
and
chargees to
registration

73. Every transfer or charge signed by a registered owner, or others claiming by transfer through or under him, purporting to transfer or charge freehold or leasehold land, or an interest therein, capable of being registered, or purporting to transfer a charge, shall, until cut out by a conflicting registration, confer upon the person intended to take under the transfer or charge a right to be registered as the owner of the land or charge and, where a person applies to be registered under this section, the proper master of titles may, either forthwith or

after requiring such notices to be given as he deems expedient, register the applicant as owner, subject to such encumbrances, if any, as the condition of the title requires, notwithstanding that the transfer or charge has been executed or bears date prior to the entry of the transferor or chargor as the owner of the land or charge. R.S.O. 1950, c. 197, s. 71 (1).

74.—(1) No person, other than the registered owner, is entitled to transfer or charge registered freehold or leasehold land by a registered disposition. Deals with registered land

(2) Subject to the maintenance of the estate and right of the registered owner, a person having a sufficient estate or interest in the land may create estates, rights, interests and equities in the same manner as he might do if the land were not registered. R.S.O. 1950, c. 197, s. 70 (1, 2), *amended*. Unregistered estates, etc.

75.—(1) A person may, under a power of attorney, authorize another person to act for him in respect of any land or interest therein under this Act. Power of attorney authorized

(2) A power of attorney or a certified copy thereof may be registered in the prescribed manner. Registration

(3) No registered power of attorney shall be deemed to be revoked until a revocation thereof is registered or evidence is filed with the proper master of titles showing that it is no longer in force. 1960, c. 56, s. 13. Revocation

76. Any person entitled to or interested in any unregistered estates, rights, interests or equities in registered land may protect the same from being impaired by any act of the registered owner by entering on the register such notices, cautions, inhibitions or other restrictions as are authorized by this Act or by the director of titles. R.S.O. 1950, c. 197, s. 70 (3); 1960, c. 56, s. 12. Protection of unregistered estates

77. No person, other than the parties thereto, shall be deemed to have any notice of the contents of any instruments, other than those mentioned in the existing register of title of the parcel of land or that have been duly entered in the books of the office kept for the entry of instruments received or are in course of entry. R.S.O. 1950, c. 197, s. 82. Effect of unregistered instruments

78.—(1) Where a person who, if not under disability, might have made an application, given consent, or done an act, or been party to a proceeding under this Act is an infant, a mentally defective person or a mentally incompetent person, the guardian of the infant or committee of the estate of the mentally defective person or mentally incompetent person Where party under disability

may make such application, give such consent, do such act or by party to such proceeding as such person if free from disability might have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act.

Idem

(2) Where the infant has no guardian or the mentally defective person or mentally incompetent person has no committee of his estate or if a person yet unborn is interested, the Official Guardian shall act with like power or the proper master of titles may appoint a person with like power to act for the infant, mentally defective person, mentally incompetent person or person yet unborn. R.S.O. 1950, c. 197, s. 106.

Submission
of case to
director of
titles
where local
master in
doubt

79. Where, on an application for the registration of an instrument after first registration or for the registration of a transmission, the local master of titles is unable to come to a clear conclusion as to the action that he should take, he shall delay making the required entry until he has stated the facts to the director of titles for his opinion, and in submitting the case the local master of titles shall state his own view and his reasons therefor. R.S.O. 1950, c. 197, s. 158; 1956, c. 38, s. 15, *amended*.

Time of
receipt to
be noted

80.—(1) The day, hour and minute of the receipt of each instrument presented for registration and of each copy of a writ or lien received under section 145 shall be noted thereon by the officer or clerk receiving the instrument or copy. 1960, c. 56, s. 11, *part, amended*.

Order of
registration

(2) Subject to the rules, an instrument received for registration shall be registered in the order of time in which it is so received, unless before registration is completed it is withdrawn or the proper master of titles decides that it contains a material error, omission or deficiency or that there is evidence lacking that he deems requisite or declines registration for any other reason, and notifies the parties or their solicitors accordingly within twenty-one days after being so received and allows a period of time not less than seven and not more than thirty days from the date of such notification for correction of the error, omission or deficiency or for furnishing evidence and, when the error, omission or deficiency is corrected or evidence furnished within the time allowed, the instrument has priority as if it had been correct in the first instance, but, if the error, omission or deficiency is not corrected or if evidence is not furnished within the time allowed or if the person desiring registration fails to appeal successfully from the decision, the proper master of titles may proceed with other registrations affecting the land as if the instrument had not been presented for registration, and the proper master of

titles shall be deemed not to be affected with notice of the contents of the instrument. R.S.O. 1950, c. 197, s. 39 (2), *part*; 1960, c. 56, s. 11, *part, redrafted*.

(3) Registration of an instrument is complete when the entry in the proper register and particulars of registration thereof on the instrument are signed by the proper master of titles, his deputy or a signing officer, and the time of receipt of the instrument shall be deemed to be the time of its registration. When registration complete

(4) When registered, an instrument shall be deemed to be embodied in the register and to be effective according to its nature and intent, and to create, transfer, charge or discharge, as the case requires, the land or estate or interest therein mentioned in the register. Effect of registration

(5) Subject to any entry to the contrary in the register and subject to this Act, instruments registered in respect of or affecting the same estate or interest in the same parcel of registered land as between themselves rank according to the order in which they are entered in the register and not according to the order in which they were created, and, notwithstanding any express, implied or constructive notice, are entitled to priority according to the time of registration. 1960, c. 56, s. 11, *part*. Priorities

(6) Upon registration of an instrument in the prescribed form, the rights of priority acquired by registration may be postponed to rights acquired or claimed under another registered instrument. 1960, c. 56, s. 7. Postponement of registered rights

81. Notwithstanding any statute or rule of law, a charge or transfer of registered land may be duly made by an instrument not under seal and, if so made, the instrument and every agreement, stipulation and condition therein has the same effect for all purposes as if made under seal. R.S.O. 1950, c. 197, s. 104, *amended*. Charges and transfers may be made without seal

82. The proper master of titles may enter as owner of freehold or leasehold land or of a charge any person who is entitled to the land or charge through the death of the owner, although the deceased had not been registered as owner, or any person who is entitled by virtue of the exercise of a power conferred by a statute, will, deed or other instrument, whether the person so entitled claims directly from the deceased or directly under the power, or through any other person entitled by virtue of the death or power or through a succession of transfers or transmissions. R.S.O. 1950, c. 197, s. 71 (5), *amended*. Right to registration

83. An instrument executed by a registered owner or a person entitled to be registered as owner, when presented for registration, shall be accompanied by an affidavit as to the Evidence necessary for registration

execution by, and the identity and age of, the owner or person so entitled or such evidence as the proper master of titles requires. 1960, c. 56, s. 4, *part*.

Registration of instruments not in prescribed form

R.S.O. 1960, c. 348

84. Where an instrument made in accordance with the forms in use or sufficient to pass an estate or interest in land under *The Registry Act* deals with land under this Act, the proper master of titles may, in his discretion, register it under this Act and, when so registered, it has the same effect as if made in the prescribed form. 1960, c. 56, s. 4, *part*.

TRANSFERS

Transfer of land

85.—(1) A registered owner may transfer land or any part thereof in the prescribed manner.

Registering transferee as owner

(2) The transfer shall be completed by the proper master of titles entering on the register the transferee as owner of the land transferred, and the transferor shall be deemed to remain owner of the land until the registration of the transfer has been completed in accordance with this Act. R.S.O. 1950, c. 197, s. 37 (1, 2), *amended*.

Estate of transferee for valuable consideration of land with absolute title

86. A transfer for valuable consideration of land registered with an absolute title, when registered, confers on the transferee an estate in fee simple in the land transferred, together with all rights, privileges and appurtenances, subject to,

- (a) the encumbrances, if any, entered or noted on the register; and
- (b) the liabilities, rights and interests, if any, as are declared for the purposes of the Act not to be encumbrances, unless the contrary is expressed on the register,

and as to such rights, privileges and appurtenances, subject also to any qualifications, limitation or encumbrance to which the same are expressed to be subject in the register, or where such rights, privileges and appurtenances are not registered, then subject to any qualification, limitation or encumbrance to which the same are subject at the time of the transfer, but free from all estates and interests whatsoever, including estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario. R.S.O. 1950, c. 197, s. 41, *amended*.

Estate of transferee for valuable consideration of land with qualified title

87. A transfer for valuable consideration of land registered with a qualified title, when registered, has the same effect as a transfer for valuable consideration of the same land registered with an absolute title, except that such transfer does not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1950, c. 197, s. 42.

88. A transfer for valuable consideration of land registered with a possessory title does not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the first registration, but otherwise, when registered, has the same effect as a transfer for valuable consideration of the same land registered with an absolute title. R.S.O. 1950, c. 197, s. 43.

Estate of transferee for valuable consideration of land with possessory title

89. A transfer of registered land, made without valuable consideration, is subject, so far as the transferee is concerned, to any unregistered estates, rights, interests or equities subject to which the transferor held the same, but otherwise, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, has the same effect as a transfer of the same land for valuable consideration. R.S.O. 1950, c. 197, s. 44.

Estate of voluntary transferee of land

90. A purchaser for valuable consideration when registered is not affected by the omission to send any notice directed to be given by this Act, or by the non-receipt thereof. R.S.O. 1950, c. 197, s. 116.

Purchasers for value not affected by omission to send notices

91.—(1) A transfer expressed to be given to such uses as the transferee appoints by transfer or by charge or by will and in default of appointment to the transferee absolutely may be registered, and, for the purposes of this Act, the wife of the transferee is not entitled to dower in the land except in default of appointment. 1958, c. 49, s. 4.

Transfer to uses

(2) An appointment by way of charge given by a transferee to uses shall be deemed not to be an exercise of the power of appointment for the purposes of this Act. 1960, c. 56, s. 8.

Charge not deemed appointment

CHARGES AND ENCUMBRANCES

92.—(1) A registered owner may in the prescribed manner charge the land with the payment at an appointed time of any principal sum of money either with or without interest or as security for any other purpose and with or without a power of sale.

Creation of charges

(2) The charge shall be completed by the proper master of titles entering on the register the person in whose favour the charge is made as the owner of the charge, stating the amount of the principal sum that the charge secures, with the rate of interest and the periods of payment, or the other purposes for which the charge is given. R.S.O. 1950, c. 197, s. 29 (1, 2).

Charge how completed

(3) The charge, when registered, confers upon the chargee a charge upon the interest of the chargor as appearing in the

Effect of charge when registered

register subject to the encumbrances and qualifications to which his interest is subject, but free from any unregistered interests in the land. R.S.O. 1950, c. 197, s. 29 (4).

Where advances under registered charge to have priority over subsequent charges

(4) A registered charge is, as against the chargor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, a security upon the land thereby charged to the extent of the money or money's worth actually advanced or supplied under the charge, not exceeding the amount for which the charge is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a transfer, charge or other instrument affecting the land charged, executed by the chargor, his heirs, executors or administrators and registered subsequently to the first-mentioned charge, unless, before advancing or supplying the money or money's worth, the registered owner of the first-mentioned charge had actual notice of the execution and registration of such transfer, charge or other instrument, and the registration of such transfer, charge or other instrument after the registration of the first-mentioned charge does not constitute actual notice.

Bond mortgage may be registered as charge upon authorization of parties

(5) An instrument in the nature of a deed of trust and mortgage that provides for the issuance of bonds or debentures may, upon the authorization of the parties thereto or their solicitors, be registered as a charge upon the lands of the grantor, and the entry in the register shall state the aggregate principal sum and the rate of interest of such bonds or debentures.

What to be included in the authorization

(6) The authorization mentioned in subsection 5 shall identify the lands to be charged in each land titles office and state the aggregate principal sum and interest rate of the bonds or debentures mentioned in that subsection.

Consent of chargee to subsequent dealings

(7) Until a charge registered under subsection 5 has been discharged, no transfer or charge of the lands shall be subsequently registered without the written consent of the chargee.

Certificate

(8) A certificate of a charge registered under subsection 5 may be granted as in the case of other charges.

Cessation

(9) A charge registered under subsection 5 may be discharged by a cessation in the prescribed form. 1960, c. 56, s. 5.

Implied covenant to pay charges

93.—(1) Where a registered charge of freehold land is created, there shall be implied on the part of the registered owner of the land at the time of the creation of the charge, his heirs, executors, administrators and successors, unless there is an entry on the register negating the implication, covenants with the registered owner for the time being of the charge,

- (a) to pay the principal sum charged and interest, if any, thereon at the appointed time and rate, and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land, and that, in case of default, all payments made by the owner of the charge may be added to the principal sum and bear interest; and
- (b) if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid.

(2) Where a charge, whether or not under seal, is expressed to be made in pursuance of *The Short Forms of Mortgages Act*, or refers thereto, and contains any form of words numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16 in Column One of Schedule B to that Act, whether expressed in the first or third person, such words have the same meaning and effect as the words under the corresponding number in Column Two of that Schedule, and the provisions of that Act apply to the charge.

Provision where charge expressed to be made under R.S.O. 1960. c. 374

(3) Where in a charge made in pursuance of *The Short Forms of Mortgages Act* there is inserted the provision that the chargee may distrain for arrears of interest, such provision confers upon the chargee the same right of distress as would be conferred upon a mortgagee of land not under the provisions of this Act. R.S.O. 1950, c. 197, s. 30, *amended*.

When chargee may distrain for arrears of interest

94. Where a registered charge of leasehold land is created, there shall be implied on the part of the registered owner of the leasehold land at the time of the creation of the charge, his heirs, executors, administrators and successors, unless there in an entry on the register negating the implication, covenants with the registered owner for the time being of the charge,

Implied covenants in charge of leaseholds

- (a) that the registered owner of the leasehold land, at the time of the creation of the charge, his executors, administrators or assigns will pay, perform and observe the rent, covenants and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed and observed; and
 - (b) will keep the owner of the charge, his executors, administrators and assigns indemnified against all actions, suits, expenses and claims on account of the non-payment of such rent, or any part thereof, or the breach of such covenants or conditions or any of them.
- R.S.O. 1950, c. 197, s. 31.

Entry by
owner of
charge

95. Subject to an entry to the contrary on the register, the registered owner of a registered charge, for the purpose of obtaining satisfaction of any money due to him under the charge, at any time during the continuance of the charge, may enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any person appearing on the register to be prior encumbrancer, and to the liability attached to a mortgagee in possession. R.S.O. 1950, c. 197, s. 32.

Foreclosure
by owner
of charge

96. Subject to an entry to the contrary on the register, the registered owner of a registered charge may enforce it by foreclosure or sale in the same manner and under the same circumstances in and under which he might enforce it if the land had been transferred to him by way of mortgage, subject to a proviso for redemption. R.S.O. 1950, c. 197, s. 33.

Remedy of
owner of
charge with
power of
sale

97.—(1) Subject to the rules and to an entry to the contrary on the register, the registered owner of a registered charge that contains a power of sale, upon production of evidence satisfactory to the proper master of titles, may sell and transfer the interest in the land or any part thereof that is the subject of the charge in accordance with the terms of the power in the same manner as if he were the registered owner of the land to the extent of such interest therein.

Effect of
sale by
chargee

(2) Subject to an order of the court, a copy of which has been served on the proper master of titles, upon the registration of a transfer under subsection I and upon satisfactory evidence being produced of the service of notice of the intended exercise of the power on every person appearing by the register or by the index of executions to have an interest in the land subsequent to that of the chargee, the proper master of titles may delete from the register the entry of an instrument or writ appearing to rank subsequent to the charge under which the land is sold, and thereupon the interest of every person claiming under such subsequent instrument ceases to affect the land. 1960, c. 56, s. 6.

Dealings
with
registered
charge

98. No person, other than the registered owner of a registered charge, is entitled to register a transfer of the charge, but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject-matter admits, in and with which unregistered estates and interests may be created in registered land. R.S.O. 1950, c. 197, s. 70 (4).

Transfer of
charges

99.—(1) The registered owner of a registered charge may, in the prescribed manner, transfer the charge to another person as owner.

(2) The transfer shall be completed by the proper master of titles entering on the register the transferee as owner of the charge transferred. Transfer completed by entry on register

(3) The transfer, when registered, confers upon the transferee the ownership of the charge free from any unregistered interests therein, and the transfer of part of the sum secured by a charge confers upon the transferee the ownership of such part free from any unregistered interests therein. Effect of registration of transfer

(4) Every transfer of a charge is subject to the state of account upon the charge between the chargor and the chargee. As between chargor and chargee

(5) The proper master of titles shall, if required, deliver to the transferee a certificate of charge. Delivery of fresh certificate

(6) The transferor shall be deemed to remain owner of the charge until registration of the transfer of charge has been completed in accordance with this Act. Transferor deemed owner until registration

(7) The registered owner of a registered charge may transfer a part of the sum secured by the charge, and the part so transferred may be given priority over the remaining part, or may be deferred or may continue to rank equally with it as is stated in the transfer. R.S.O. 1950, c. 197, s. 53, *amended*. Transfer of part of a charge

100.—(1) The proper master of titles shall, on the requisition of the registered owner of land and on due proof of the satisfaction of a charge thereon, or may, on the requisition of the registered owner of a registered charge or of his personal representative or on his certificate of the satisfaction thereof, note on the register in the prescribed manner the cessation of the charge, and thereupon the charge ceases. Cessation of encumbrance

(2) The proper master of titles may in like manner and with the like effect note the cessation of any other encumbrance. Other encumbrances

(3) On the requisition or certificate of the registered owner of a registered charge or of the personal representative of such owner authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the proper master of titles may note on the register the discharge of such land from the charge or the discharge of such part of the money, and thereupon the charge ceases as to the land or money discharged. Partial cessation of charge

(4) The death of the person who signed the requisition or certificate does not revoke or otherwise affect the discharge. R.S.O. 1950, c. 197, s. 36, *amended*. Death of person certifying to cessation of charge

101.—(1) Where upon the first registration of land notice of an encumbrance affecting the land has been entered on the register, the proper master of titles, on proof to his satisfaction of the discharge of the encumbrance, shall note in the prescribed manner on the register the cessation of the encumbrance and thereupon the encumbrance ceases. Complete or partial discharge of encumbrance existing at first registration

Note of
discharge
on requisition
of
mortgagee

(2) On the requisition or certificate of a mortgagee whose mortgage was entered on the register on the first registration of the land, or the registered assignee thereof, or of the personal representative of such mortgagee or assignee, authorizing or certifying the discharge of the whole or a part of the land therefrom, or the discharge of the whole or a part of the money thereby secured, the proper master of titles may note on the register the discharge of the land from the mortgage or the discharge of the part of the money, and thereupon the encumbrance ceases as to the land or money discharged.

Death of
person after
signing
requisition

(3) The death of the person who signed the requisition or certificate does not revoke or otherwise affect it. R.S.O. 1950, c. 197, s. 26, *amended*.

Cancellation
of
mechanic's
lien
R.S.O. 1960,
c. 233

102. Where it appears to the satisfaction of the proper master of titles that a lien under *The Mechanics' Lien Act* has ceased to exist, he may make an entry in the register cancelling the claim, and thereupon the claim ceases to affect the land. R.S.O. 1950, c. 197, s. 69, *amended*.

LEASEHOLD INTERESTS

Transfer of
leasehold
land

103.—(1) A registered owner of leasehold land may, in the prescribed manner, transfer the whole of his estate in the land or in a part thereof.

Transferor
deemed
owner until
registration

(2) The transfer shall be completed by the proper master of titles entering on the register the transferee as owner of the leasehold land transferred and, until the registration of the transfer has been completed in accordance with this Act, the transferor shall be deemed to remain owner. R.S.O. 1950, c. 197, s. 47 (1, 2), *amended*.

Estate of
transferee
for valuable
consideration
of
leasehold
land with a
declaration
of absolute
title of
lessor

104. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, when registered, vests in the transferee the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges and appurtenances, free from all estates and interests whatsoever, including any estates and interests of Her Majesty, that are within the legislative jurisdiction of Ontario, but subject to the following:

1. All implied and express covenants, obligations and liabilities incident to such estate.
2. The encumbrances, if any, entered or noted on the register.

3. The liabilities, rights and interests as affect the leasehold estate and are by this Act declared for the purposes of the Act not to be encumbrances in the case of registered freehold land unless the contrary is expressed on the register. R.S.O. 1950, c. 197, s. 48, *amended*.

105. A transfer for valuable consideration of leasehold land, registered without a declaration of the title of the lessor, does not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held, but otherwise, when registered, has the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1950, c. 197, s. 49.

Estate of transferee for valuable consideration of leasehold land without a declaration of title of lessor

106. A transfer for valuable consideration of leasehold land, registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held, when registered, has the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, except that such transfer does not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. R.S.O. 1950, c. 197, s. 50.

Estate of transferee for valuable consideration of leasehold land with a declaration of qualified title of lessor

107. A transfer of registered leasehold land made without valuable consideration is subject, so far as the transferee is concerned, to any unregistered estates, rights, interests or equities subject to which the transferor held the same, but otherwise, when registered, in all respects and in particular as respects registered dealings on the part of the transferee, has the same effect as a transfer of the same land for valuable consideration. R.S.O. 1950, c. 197, s. 51.

Estate of voluntary transferee of leasehold land

108. On the transfer of registered leasehold land, unless there is an entry on the register negating such implication, there shall be implied,

Implied covenants on transfer of leasehold estates

- (a) on the part of the transferor a covenant with the transferee that, notwithstanding anything by such transferor done, omitted or knowingly suffered, the rents, covenants and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed and observed, have been so paid, performed and observed up to the date of the transfer; and

- (b) on the part of the transferee a covenant with the transferor that the transferee, his executors, administrators or assigns will pay, perform and observe the rents, covenants and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed and observed, and will keep the transferor, his executors, administrators and assigns indemnified against all actions, suits, expenses and claims on account of the non-payment of the rent or a part thereof, or the breach of the covenants or conditions or any of them. R.S.O. 1950, c. 197, s. 52.

Lessee may
apply for
registration
of notice of
lease

109.—(1) A lessee or other person entitled to or interested in a lease or agreement for a lease of registered land where the term is for a life or lives, or is determinable on a life or lives, or where the period of the lease or agreement yet to run is three years or more, or where the occupation is not in accordance with the lease or agreement, may apply to the proper master of titles to register notice of the lease or agreement in the prescribed manner.

Lease by
registered
owner

(2) Where the lease is by the registered owner of the land, the proper master of titles may without notice to him enter on the register such notice thereof as he deems necessary.

Lease not by
registered
owner

(3) Where the lease is not by the registered owner but his title appears to be subject thereto or in the case of an agreement for a lease, the proper master of titles, upon notice to such owner, may enter notice of the lease or agreement on the register.

Lease or
copy to be
deposited

(4) The applicant shall deliver to the proper master of titles the original lease or agreement or a copy thereof and, if the application is granted, the proper master of titles shall make a note on the register identifying the lease or agreement, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given.

Where
registered
owner
concurs

(5) If the registered owner concurs in a registration under subsection 2 or 3, notice may be entered in such manner as is agreed upon.

Effect of
registration

(6) Where notice of a lease or agreement for a lease is registered, every registered owner of the land and every person deriving title through him, excepting owners of encumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an encumbrance on the land in respect of which the notice is entered. R.S.O. 1950, c. 197, s. 72 (1-6), *amended*.

(7) Where notice of a lease or agreement for a lease has been registered, a notice of, Notice of interest in lease

- (a) a sublease;
- (b) an assignment of the lease;
- (c) a charge of the lease;
- (d) an assignment of the lessor's interest in the lease; or
- (e) a determination of the lease,

may be registered in the prescribed form. 1960, c. 56, s. 14.

(8) Unless the transferee or chargee has actual notice of a prior transfer or charge, a transfer or charge in respect of which a notice has been entered takes priority over one of which notice has not been entered. R.S.O. 1950, c. 197, s. 72 (9), *amended*. Priority of notices

110. The proper master of titles, on proof to his satisfaction of the determination of a lease of registered land existing at first registration, shall note on the register the determination of the lease. R.S.O. 1950, c. 197, s. 27. Determination of lease existing at first registration

CERTIFICATES

111.—(1) The proper master of titles shall, if required by the first registered owner of freehold land, deliver to him a certificate in the prescribed form, in this Act called a "certificate of ownership", which shall state whether the title of the owner is absolute, qualified or possessory. R.S.O. 1950, c. 197, s. 13. Certificate of ownership on first registration

(2) Upon the registration of a transfer of freehold land, the proper master of titles shall, if required, deliver to the transferee a certificate of ownership. Certificate of ownership on transfer

(3) Where part only of the land is transferred, the proper master of titles shall, if required, deliver to the transferor a certificate of ownership containing a description of the land retained by him. R.S.O. 1950, c. 197, s. 37 (3, 4), *amended*. Where part only is transferred

112.—(1) The proper master of titles shall, if required by the first registered owner of leasehold land, deliver to him an authenticated copy of the registered lease, in this Act called an "office copy", and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to the lease entered in the register. R.S.O. 1950, c. 197, s. 20, *amended*. Office copy of lease given on first registration of leasehold

(2) Upon completion of the registration of a transfer of leasehold land, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the Office copy of lease on transfer

transferee is entitled to an office copy of the registered lease. R.S.O. 1950, c. 197, s. 47 (3), *amended*.

Where part
only is
transferred

(3) Where part only of the land comprised in a registered lease is transferred, the proper master of titles shall, if required, deliver to the transferor an office copy of the registered lease. R.S.O. 1950, c. 197, s. 47 (4), *amended*.

Certificate
of ownership
of leasehold
land

113. Upon the application of the registered owner of leasehold land, the proper master of titles may, in his discretion, deliver to the owner a certificate of ownership of leasehold land in the prescribed form instead of or in addition to an office copy of the lease. 1960, c. 56, s. 10, *amended*.

Certificate
of charge

114. The proper master of titles shall, if required, deliver to the owner of a charge a certificate of charge in the prescribed form. R.S.O. 1950, c. 197, s. 29 (5), *amended*.

Certificate
for part
owner

115. The proper master of titles shall, if required, deliver to the persons entitled to several estates as mentioned in section 66 or owners who are tenants in common or joint tenants one certificate in respect of the whole estate or to each person, when the extent of his interest is defined, a certificate of ownership in respect of his own estate, but, when a certificate for the whole is outstanding, no separate certificate shall be delivered until the outstanding certificate is returned and cancelled. R.S.O. 1950, c. 197, s. 7 (3), *amended*.

Certificates
etc., to be
evidence

116. A certificate of ownership or a certificate of charge is *prima facie* evidence of the matters therein contained, and an office copy of a registered lease is *prima facie* evidence of the contents of the registered lease. R.S.O. 1950, c. 197, s. 93, *amended*.

Effect of
deposit
of certificate
or office
copy of lease

117. Subject to any registered estates, charges or rights, the deposit of a certificate of ownership or of an office copy of a registered lease for the purpose of creating a lien on the land to which the certificate or lease relates shall be deemed equivalent to a deposit of the title deeds of the land. R.S.O. 1950, c. 197, s. 94, *amended*.

Production
of certificate
of ownership

118. Where upon an application for the registration of a charge or of a transfer of land or of a transfer of a charge the proper master of titles considers it expedient to require the production of the certificate of ownership, either for the purpose of identifying the person dealing with the land or charge or for cancellation or for any other purpose, he may do so, and may decline to register the instrument until the certificate has been produced and, if the certificate is not produced within such time as the proper master of titles limits, he may return the instrument. R.S.O. 1950, c. 197, s. 39 (1), *amended*.

119.—(1) A person who is entitled to have a transfer or charge entered on the register may require the holder of the certificate of ownership, if any is outstanding, to produce the certificate to the proper master of titles, or to deliver it to the person so entitled for production for the purpose of having all proper entries or alterations made thereon by the proper master of titles or for cancellation.

Right to compel production of certificate of ownership

(2) A person entitled to have a cessation of a charge registered may require the production of an outstanding certificate of the charge in like manner for cancellation. R.S.O. 1950, c. 197, s. 38, *amended*.

Certificate of ownership of a charge which has ceased

120.—(1) If a certificate of ownership or an office copy of a registered lease or certificate of charge is lost, mislaid or destroyed, the proper master of titles, upon being satisfied of that fact, may deliver a new certificate of ownership or office copy or certificate of charge in place of the former one.

Loss of certificate etc.

(2) The proper master of titles may, upon the delivery to him of a certificate of ownership or of an office copy of a registered lease or of a certificate of charge, deliver a new certificate of ownership or office copy or certificate of charge in place of the one so delivered. R.S.O. 1950, c. 197, s. 92, *amended*.

Renewal of certificates etc.

RESTRICTIONS, ETC.

121.—(1) Where the registered owner of freehold or leasehold land or of a charge desires to impose restrictions on transferring or charging the land or charge, he may apply to the proper master of titles to make an entry on the register that no transfer shall be made or charge created unless the following things, or such of them as the owner determines, are done:

Power to place restrictions on register

1. Notice of an application for a transfer or for the creation of a charge is transmitted by registered mail to such address as he specifies to the proper master of titles.
2. The consent of some person or persons, to be named by him, is given to the transfer or the creation of a charge.
3. Some other matter or thing is done as is required by him and approved by the proper master of titles.

(2) If the proper master of titles is satisfied of the right of the applicant to impose such restrictions, he shall make a note of them on the register and no transfer shall be made or charge created except in conformity therewith.

Master to enter restrictions in register

Discretion
of the
master

(3) The proper master of titles is not required to enter a note of a restriction, except upon such terms as to payment of the fees and otherwise as are prescribed, or to enter a note of a restriction that he deems unreasonable or calculated to cause inconvenience.

Restrictions
may be
withdrawn
or set
aside

(4) Any such restriction may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in the restriction, and is also subject to be set aside by the court. R.S.O. 1950, c. 197, s. 81, *amended*.

Annexation
of conditions
or covenants
to registered
land

122.—(1) There may be registered as annexed to land that is being or has been registered, subject to the rules and in the prescribed manner, a condition or covenant that the land or a specified part thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land.

Notice and
modification
or discharge
of covenants

(2) The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant, but any such condition or covenant may be modified or discharged by order of the court on proof to the satisfaction of the court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant.

Covenants
or conditions
running
with land

(3) The entry on the register of a condition or covenant as running with or annexed to land does not make it run with the land, if such covenant or condition on account of its nature, or of the manner in which it is expressed, would not otherwise be annexed to or run with the land.

Subsequent
transfers

(4) Where a condition or covenant has been entered on the register as annexed to or running with land and a similar condition is contained in a subsequent transfer or a similar covenant is in express terms entered into with the owner of the land by a subsequent transferee, or *vice versa*, it is not necessary to repeat the condition or covenant on the register or to refer thereto, but the proper master of titles may, upon a special application, enter the condition or covenant either in addition to or in lieu of the condition or covenant first mentioned. R.S.O. 1950, c. 197, s. 101.

Removal of
entry of
condition or
covenant
from
register

(5) Where a condition or covenant has been entered on the register as annexed to or running with land for a fixed period and the period has expired, the proper master of titles may, at any time after ten years from the expiration of the period, remove the entry from the register. 1952, c. 49, s. 3.

DOWER AND CURTESY

123. A married woman may execute without seal any bar of dower or other instrument under this Act, and her husband need not be a party thereto, and she may bar her dower in land sold or charged by her husband for value, although she is under the age of twenty-one years. R.S.O. 1950, c. 197, s. 105, *part, amended*. Execution of instruments by married women

124.—(1) Where a person claims that registered land is free from dower and no instrument can be produced and registered showing release of dower by the wife of the registered owner, the proper master of titles may, upon satisfactory evidence produced before him, give notice to the wife to support her claim to dower in the registered land within thirty days. Claim that land is free from dower

(2) If the wife of the registered owner fails to claim her dower within the thirty days, the proper master of titles may enter on the register a note that the land is free from dower, and this entry is a bar to any claim for dower by the wife. Wife barred after failure to claim dower

(3) If the wife of the registered owner claims her right to dower within the thirty days, the proper master of titles may hear and determine her claim. Dower claim decided by master

(4) In this section, "wife of the registered owner" includes the widow of a former owner. 1956, c. 38, s. 3. Interpretation

125. The wife of a registered owner of land is not entitled to dower therein, Dower where encumbered land transferred

(a) where the registered owner acquired the land subject to a charge and transferred the land subject to that charge; or

(b) where the registered owner charged the land, subsequently became married to the wife, and transferred the land subject to that charge. 1960, c. 56, s. 9.

126. A person entitled to an estate in dower or by the curtesy in registered land may apply in the prescribed manner to the proper master of titles to register notice of such estate, and the proper master of titles, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form, and, when so registered, such estate is an encumbrance appearing on the register and shall be dealt with accordingly. R.S.O. 1950, c. 197, s. 73. Registration of notices of estates in dower or by the curtesy

DEATH OF REGISTERED OWNER

127. On the death of the sole registered owner or of the survivor of several joint registered owners of freehold land, such person shall be registered as owner in the place of the deceased owner or owners as may, on the application of any Transmission on death of owner of freehold land

person interested in the land, be appointed by the proper master of titles, regard being had to the rights of the several persons interested in the land and in particular to the selection of any such person as for the time being appears to the proper master of titles to be entitled according to law to be so appointed, subject to an appeal to the court in the prescribed manner by any person aggrieved by an order of the proper master of titles under this section. R.S.O. 1950, c. 197, s. 56.

Transmission on death of owner of leasehold land or of charge

128. On the death of the sole registered owner or of the survivor of several joint registered owners of leasehold land or of a charge, the executor or administrator of such sole deceased owner or of the survivor of such joint owners is entitled to be registered as owner in his place. R.S.O. 1950, c. 197, s. 57.

Entry of representatives of deceased tenant in common

129. Where two or more persons holding as tenants in common have been entered as owners of land or a charge and one of them dies, his personal representative, or such other person as is entitled to the share of the deceased, may be entered as owner with the survivor or survivors. R.S.O. 1950, c. 197, s. 58.

Removal of name of deceased joint tenant

130. Where two or more persons holding as joint tenants have been entered as owners of land or a charge and one of them dies without the joint tenancy having been severed, an application in the prescribed manner shall be submitted by the survivor or survivors to remove from the register the name of the deceased joint tenant. 1954, c. 43, s. 4.

Evidence of transmission of registered ownership

131. The fact of a person having become entitled to land or a charge in consequence of the death of a registered owner shall be proved in the prescribed manner. R.S.O. 1950, c. 197, s. 60.

Entry of name of person beneficially entitled as owner without reference to debts
R.S.O. 1960, c. 106

132. Where land has been transferred to a person beneficially entitled thereto within three years after the death of the registered owner or has become vested in the person beneficially entitled thereto under *The Devolution of Estates Act*, the proper master of titles, upon application and the production of satisfactory evidence showing that all debts of the deceased registered owner have been paid and that creditors have been notified, may,

- (a) where the person beneficially entitled is shown on the register as owner of the land and the register shows that the land is subject to the unpaid debts of the deceased registered owner, delete the reference to the unpaid debts from the register; or

- (b) register the person beneficially entitled to the land without reference to the unpaid debts of the deceased registered owner. 1954, c. 43, s. 5.

133.—(1) Notwithstanding anything in *The Devolution of Estates Act* or this Act, no executor, administrator, devisee, beneficiary, heir, nor any person interested in freehold or leasehold land or in a charge or interest therein, shall, by reason of the death of a registered owner, co-owner or joint owner of the land, charge or interest, be entered as owner unless the consent in writing of the Treasurer of Ontario is attached to or endorsed on the application for transmission of interest or application for entry and such entry shall be in respect of only the land, charge or interest mentioned in the application and, in the case of the death of the registered owner of a charge where no such entry is being applied for but a cessation of the charge is tendered for registration, such cessation shall not be registered until the above consent is attached thereto or endorsed thereon. R.S.O. 1950, c. 197, s. 62.

Transfer of interest of deceased owner not to be entered without consent of Treasurer of Ontario
R.S.O. 1960, c. 106

(2) Subsection 1 does not apply where the death of the registered owner occurred prior to the 1st day of January, 1930. R.S.O. 1950, c. 197, s. 63.

Saving

134.—(1) A person claiming to be entitled to freehold or leasehold land, or to an interest therein capable of being registered, or to a charge as devisee, heir, executor or administrator of a person who might have been registered under section 73, or a person claiming through or under such devisee, heir, executor or administrator, may apply to be registered as owner of such land, interest or charge, and, if no conflicting registration has been made, may be so registered subject to section 73 and this section.

Application of devisees, etc., for registration

(2) On registering the applicant, the proper master of titles shall, so far as practicable, enter on the register short particulars of every instrument or other title under which the right is conferred, as if such instrument had been duly presented for registration, or application for entry of transmission had been made in the proper order of time, and, as a preliminary step to the registration of the applicant, may enter an intermediate transferee, heir, executor or administrator as registered owner where that method is more convenient.

Mode of entry

(3) No application by a person claiming through or under a deceased person shall be allowed unless all the persons entitled to the whole of the estate of the deceased in the land are to be entered as owners. R.S.O. 1950, c. 197, s. 71 (2-4), *amended*.

All persons entitled must apply

CAUTION, ETC.

Registration
of caution

135.—(1) A person interested in any way in land or a charge registered in the name of any other person may apply to the proper master of titles for registration of a caution to the effect that no dealings with the land or charge be had on the part of the registered owner or other named person who is shown to have an interest in the land until notice has been served upon the cautioner.

When no
caution

(2) A person interested under a lease or agreement for a lease of which notice has been entered on the register, or a person entitled to an estate in dower or by the curtesy of which notice has been entered on the register, is not entitled to register a caution in respect of the lease or agreement or estate in dower or by the curtesy. R.S.O. 1950, c. 197, s. 74 (1, 3).

Renewal
and
expiration

(3) A caution registered under this section ceases to have effect five years from the date of its registration unless renewed within that time.

Notice

(4) Subsection 3 does not apply unless, at least thirty days before the caution ceases to have effect, the proper master of titles sends to the cautioner by registered mail a notice warning him that his caution will cease to have effect unless renewed.

Idem

(5) If a notice is not sent as required by subsection 4, the proper master of titles may at any later time send to the cautioner by registered mail a notice warning him that his caution will cease to have effect after the expiration of thirty days from the receipt of the notice unless renewed within that period and, if the caution is not renewed within that period, it ceases to have effect.

Deletion
from
register

(6) When a caution ceases to have effect, the proper master of titles may delete the entry from the register. 1952, c. 49, s. 2, *amended*.

Caution
prevents
dealing

136.—(1) After a caution has been registered, the proper master of titles shall not, without the consent of the cautioner, register any dealing with the land or charge against which the caution is registered.

Owner may
apply for
removal
of caution

(2) Notwithstanding section 135, the registered owner of land or of a charge against which a caution has been registered may apply to the proper master of titles at any time for a notice to be served upon the cautioner warning him that his caution may cease to have effect after the expiration of the prescribed number of days next ensuing the date upon which the notice is served unless the cautioner appears before the proper master of titles at the time and place mentioned in the notice and satisfies him that the caution should not be deleted from the register.

(3) Upon receipt by him of an application under subsection 2, the proper master of titles shall serve a notice in the prescribed form upon the cautioner. Service of notice

(4) If the cautioner fails to appear before the proper master of titles at the time and place mentioned in the notice served under subsection 3, the proper master of titles may delete the entry of the caution from the register, and thereupon the caution ceases to have effect and the land or charge may be dealt with as if no caution had been registered. R.S.O. 1950, c. 197, s. 75 (1, 3), *redrafted*. Where cautioner does not appear

(5) A notice to a cautioner is not required where the dealing proposed to be registered is under the authority of a judgment or order of the court in a suit or proceeding to which the cautioner is a party or where such dealing is under a power of sale contained in a charge or mortgage that is prior to the title under which the cautioner claims and the cautioner has been served with a notice of the proposed exercise of the power of sale and the caution is not in respect of the exercise of the power of sale or where the dealing is of such a nature that it cannot detrimentally affect the interest of the cautioner as claimed in the affidavit filed with his caution or where the transferee, chargee or other person desiring the registration of the dealing is willing that the same should be registered subject to the continuance of the caution and the proper master of titles thinks fit so to register it, and, where a caution is continued, such continuance prevents further registrations of dealings by the registered owner until after notice to the cautioner, unless as in this section provided. When notice to cautioner not required

(6) Where a caution affects part only of the land dealt with by the transfer, charge or other instrument, the proper master of titles may, upon the application in writing of the person desiring registration or his solicitor, register the dealing as to the land not affected by the caution, and may subsequently, after notice to the cautioner or with his consent, register the dealing as to the remainder of the land dealt with by the instrument or any part thereof, and the certificate of registration on the instrument shall show that the registration made in the first instance covers only part of the land embraced in it. Caution against part

(7) The proper master of titles, upon receiving the consent of the cautioner to the registration of a dealing, may discharge the caution, unless the consent provides for its continuance, or he may discharge the caution as to the land or charge to which the dealing applies, but he shall not do so where from the nature of the dealing he is of opinion that the continuance of the caution is contemplated. R.S.O. 1950, c. 197, s. 75 (4-6). Power of master

137.—(1) Where the registered owner of freehold or leasehold land has executed a transfer or a charge thereof but claims that on account of special circumstances shown by Caution by registered owner

affidavit the transferee or chargee should not be registered without notice to the registered owner, the proper master of titles may permit the registration of a caution by the registered owner.

Effect

(2) The registration of the caution stays the registration of the transfer or charge until notice has been served on the cautioner in accordance with section 136. R.S.O. 1950, c. 197, s. 76, *amended*.

When security may be taken

138. If before the expiration of the prescribed period the cautioner or some person on his behalf appears before the proper master of titles and, within such period or such additional period as the proper master of titles allows, gives sufficient security to indemnify every person against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the proper master of titles may delay registering any dealing with the land or charge for such further period as he deems just or may, instead of taking the security, register such dealing subject to the caution on any condition that he thinks fit to impose as to security or otherwise or may make such other order as he deems just. R.S.O. 1950, c. 197, s. 77.

Second caution

139. A second caution by the same cautioner or by any other person in respect of the same matter shall not be registered or have any effect except with the permission of the proper master of titles, which may be given either upon terms or without terms as he deems proper. R.S.O. 1950, c. 197, s. 78, *amended*.

Caution to be supported by affidavit

140. Every caution shall be supported by an affidavit in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution and such other matters as are prescribed. R.S.O. 1950, c. 197, ss. 74 (2), 86.

Liability where caution improperly registered

141. A person who registers a caution without reasonable cause is liable to make to any person who may sustain damage by its registration such compensation as is just, and the compensation shall be deemed to be a debt due from the person who has registered the caution to the person who has sustained damage. R.S.O. 1950, c. 197, s. 87, *amended*.

Limit of effect of caution

142. A caution does not prejudice the claim or title of any person and has no effect except as in this Act provided. R.S.O. 1950, c. 197, s. 88.

Caution based upon *lis pendens*

143. A certificate of *lis pendens* affecting land shall not be registered, but any party to an action, his solicitor or any

person claiming to be interested in the action may register a caution subject to the same conditions as in other cases. R.S.O. 1950, c. 197, s. 84.

144.—(1) Where timber standing upon registered land is sold under an agreement in writing, the purchaser, instead of registering a caution, may deposit the agreement with the proper master of titles, and the proper master of titles, upon proof of the due execution thereof by the owner, shall register it as an encumbrance on the land by entering a note on the register referring to the instrument and giving shortly its effect. Sale of standing timber

(2) When registering the agreement, the purchaser shall by memorandum endorsed thereon or annexed thereto give his address for service. Address for service

(3) The registration of such an agreement may be vacated upon the consent in writing of the purchaser verified by an affidavit of execution. Discharge by consent

(4) The registration of such an agreement may also be vacated if the purchaser fails, for the period of one month from the date of the mailing of the notice provided for in subsection 5, to satisfy the proper master of titles that he still has rights under the agreement. Discharge by master

(5) Upon proof to his satisfaction that the rights of the purchaser are at an end, the proper master of titles shall send a notice by registered mail addressed to the purchaser at his address for service, warning him that his agreement will cease to have effect after the expiration of one month from the mailing of the notice unless good cause for its continuance is shown. Notice
R.S.O. 1950, c. 197, s. 79, *amended*.

(6) At any time after ten years from the expiry date of an agreement or renewal thereof of which notice has been registered under this section, the proper master of titles may, upon application and without notice to the purchaser, delete from the register the entry of the notice of agreement or of the renewal. Removal of entry of timber agreement from register ten years after expiry
1960, c. 56, s. 15.

EXECUTIONS

145.—(1) The sheriff or other officer to whom an execution or other writ, or renewal thereof, affecting registered land is directed, forthwith after its delivery to him, upon written request of the party by whom it was sued out or renewed, or of his solicitor, but not otherwise, shall deliver or transmit by registered mail to the proper master of titles a copy of the writ or renewal certified under his hand, and no registered land is bound by any such writ until such copy has been re- Notice of executions

ceived by the proper master of titles and, after the receipt by him of the copy, no transfer or charge by the execution debtor is effectual, except subject to the rights of the execution creditor under the writ.

Record of
same

(2) The proper master of titles shall keep an index or a book in the prescribed form in which shall be entered a record of all writs and renewals, copies of which are received by him from the sheriff or other officer.

Transfer
before entry
void as
against
purchaser

(3) No sale or transfer under any such writ is valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding that the purchaser may have had notice of the writ.

Entry of
satisfaction
of writ

(4) Upon production to the proper master of titles of sufficient evidence of the satisfaction of such a writ, he shall cause an entry to be made in the index or book to that effect, and, on such entry, the writ shall be deemed to be satisfied.

When writ
to be
presumed
to be spent

(5) Every writ and renewal of a writ shall be presumed to have been spent and the delivery or transmission of a copy thereof ceases to have effect at the expiration of the writ or renewal as appearing on the copy transmitted, but, if there has been a sufficient commencement of the execution to enable it to be completed by the sale and conveyance of the land under the writ and the writ has not been completely executed, the sheriff or officer shall, or the execution creditor may, at any time within one month before the expiration of the writ or renewal as so appearing, file with the proper master of titles a certificate of the sheriff or officer stating that fact, and such certificate shall be noted at the entry of the writ in the index or book, and the writ continues in force for a further period of one year from the filing of the certificate when it ceases to have effect unless another similar certificate is filed that operates in like manner.

Notice
where writ
against
owner under
different
name from
that on the
register

(6) Where an execution or other writ is issued against the registered owner under a different name from that under which he is registered, the writ has no effect under this Act unless the person who sues out the writ, or his solicitor, gives a notice to the proper master of titles stating the name under which the execution debtor is registered and otherwise in the form or to the effect prescribed or unless a like notice is written upon the copy of the writ. R.S.O. 1950, c. 197, s. 64 (1-6).

Where writ
not binding

(7) Where land is being transferred or charged and where a notice under subsection 6 has not been given, a writ of execution or renewal thereof does not bind the land being transferred or charged as against the transferee or chargee if the proper master of titles decides that the name of the execution debtor appearing in the writ or renewal thereof and the name of the

registered owner as it appears in the records of the land titles office do not represent the same person, and he issues a certificate accordingly. 1958, c. 49, s. 5.

(8) The sheriff or other officer is entitled to a fee of 50 cents for each copy of writ or certificate transmitted by him. R.S.O. 1950, c. 197, s. 64 (7). Fee to sheriff

146. Where a person applies for registration of an instrument and claims that a writ apparently affecting land does not affect the land or a charge thereon, he shall produce such evidence thereof as the proper master of titles considers necessary, and the proper master of titles may require all parties interested to be notified of the application and may himself decide the question or may direct an issue to be tried or a case to be stated and may make such order as to costs as he deems just. R.S.O. 1950, c. 197, s. 65, *amended*. Procedure when claimed writ not binding

147.—(1) The seizure under execution or other process of a mortgage or charge or of leasehold land registered under this Act does not take effect until a certificate of the sheriff or other officer that he has taken the mortgage, charge or leasehold land under such process against the registered owner thereof is lodged with the proper master of titles. Seizure ineffectual until certificate by sheriff

(2) The certificate shall state the number of the parcel under which the land affected is registered and the name of the owner and shall be entered by the proper master of titles in the register. Contents of certificate

(3) This section does not apply where the proceedings prescribed by section 18 of *The Execution Act* have been taken with respect to a mortgage or charge. R.S.O. 1950, c. 197, s. 66. Application of section R.S.O. 1960, c. 126

148.—(1) Where registered freehold or leasehold land is sold under execution or other process, the proper master of titles, upon receiving the transfer from the sheriff or other officer with proof of due execution, shall cause a notice to be given to the person whose interest has been sold. Notice of sale of registered land by sheriff

(2) If no claim is made against the land within fourteen days from the giving of the notice, the proper master of titles shall register the purchaser as owner. When purchaser registered as owner

(3) If a claim is made against the land within fourteen days from the giving of the notice, the proper master of titles shall hear and determine the claim. 1956, c. 38, s. 4. Master determines claims

SALE FOR TAXES

149.—(1) Where land is sold for taxes, the purchaser may at any time after the sale register a caution against the transfer of the land, and, upon the completion of the time allowed by law for redemption and upon the production of the transfer of Tax purchasers, registration of caution and subsequent entry as owner

the land with proof of the due execution thereof by the proper officer, the proper master of titles shall cause a notice to be sent by registered mail to the proper post office address of the persons who appear upon the register to be interested in the land or served upon them or any of them personally or substitutionally by advertisement or otherwise as the proper master of titles directs, and, after the expiration of three months from the mailing or service of the notice, shall, if no other person has become entitled by priority of registration, register the purchaser at the sale as owner of the land, with an absolute title, and shall, if required, issue to him a certificate of ownership in the prescribed form unless the registration is in the meantime stayed by order of the court, and, in that case, the registration shall not be made nor shall the certificate be issued except in accordance with the order and direction of the court.

Notice to
persons
interested

(2) If any person appearing upon the register to be interested in the land acquired such interest after the tax sale, the notice to be given to him shall require him, if he objects to the registration of the tax purchaser as owner or if, having a charge only, he claims priority for such charge, to file his objection or claim verified by affidavit with the proper master of titles before the expiration of one month from the mailing or other service of the notice, and the proper master of titles shall hear and determine the objection or claim upon notice to the parties interested and registration shall be made in accordance with the final determination of the matter by the proper master of titles or on appeal from him.

Forfeiture
of priority
of tax
purchaser

(3) Where a tax purchaser fails to register a caution or to present his deed for registration prior to the registration of the title of a purchaser or chargee, claiming from or through the person who was the registered owner at the time of the tax sale, for valuable consideration and without actual notice of the tax sale, he loses his priority.

Mechanic's
lien

(4) Where it is made to appear to the proper master of titles that the purchaser has so dealt with the land that a mechanic's lien has, or probably has, attached thereto subsequent to the sale and a claim of lien has been registered against the land, the proper master of titles may register the purchaser's title subject to the claim of lien. R.S.O. 1950, c. 197, s. 68, *amended*.

TRUSTEE ACT, APPLICABILITY

How far
R.S.O. 1960,
c. 408,
to apply

150. All the provisions of *The Trustee Act* that are not inconsistent with the provisions of this Act apply to land and charges registered under this Act, but this enactment does not prejudice the applicability to such land and charges of any provisions of that Act relating to land or choses in action. R.S.O. 1950, c. 197, s. 102.

PART VIII

DESCRIPTIONS OF LAND AND REGISTERED PLANS

151.—(1) Registered land shall be described in such manner as the proper master of titles deems best calculated to secure accuracy. R.S.O. 1950, c. 197, s. 100 (1), *part*. How land to be described

(2) The description of registered land is not conclusive as to the boundaries or extent of the land. R.S.O. 1950, c. 197, ss. 23 (2), 100 (1), *part, amended*. Description not conclusive

152. No alteration shall be made in the registered description of land, except under an order of the court or under section 167 or by way of explanation, but this section does not extend to registered dealings with registered land in separate parcels, although the land was originally registered as one parcel. R.S.O. 1950, c. 197, s. 100 (2), *amended*. No alteration to be made in registered description

153.—(1) Every plan submitted for registration or for deposit shall be prepared in accordance with the regulations. Plans to conform to regulations

(2) Where land is being subdivided for the purpose of being sold or conveyed in lots, the person making the subdivision shall register in the proper land titles office a plan of the land prepared by an Ontario land surveyor and certified by him in the prescribed form. Subdivision plans to be registered

(3) The person by whom or on whose behalf a plan is registered shall sign the plan, but no seal shall be affixed thereto. Signature to be affixed to plan

(4) A duplicate plan and a mounted duplicate plan shall be deposited at the time of the registration of the plan. Duplicate, etc.

(5) Upon the registration of a plan, the proper master of titles shall endorse on the duplicate plan and on the mounted duplicate plan a certificate showing the number of the plan and the date of its registration, and he shall deliver without fee the duplicate plan to the clerk of the local municipality in which the land is situate. Duplicate plan to be delivered to municipality

(6) Upon the registration of a plan, the mounted duplicate plan thereof has all the force and effect of the plan. Mounted duplicate same as plan

(7) The proper master of titles, before accepting a plan for registration, may require evidence to be given him explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or he may require evidence to be given him respecting any other matter of which he requires explanation. Additional information

Approval
of plans
by examiner
of surveys
R.S.O. 1960,
c. 324

(8) No plan, other than a plan of public lands prepared under *The Public Lands Act* or as otherwise excluded by the regulations, shall be registered or deposited in a land titles office unless it has been approved by the examiner of surveys or by such other person as is designated by the director of titles.

Verification
of survey

(9) Before a plan, other than a plan of public lands prepared under *The Public Lands Act* or as otherwise excluded by the regulations, is registered or deposited in a land titles office, the director of titles may require a survey thereof to be verified on the ground by the examiner of surveys or by such other person as is designated by the director of titles.

True copy
of plan

(10) The director of titles may direct that a true copy of a plan or a part of a plan registered or deposited in a land titles office be made under the direction of the examiner of surveys, who shall certify thereon that it is a true copy of the plan or of a part of a plan, as the case may be, and the copy so made and certified has all the force and effect of the plan or of that part of the plan of which it is a copy.

Correction
of plans

(11) Upon the filing of evidence satisfactory to the proper master of titles and upon his giving such notice to interested persons as he deems appropriate, he may correct any erroneous measurements upon, or any error, defect or omission in, any plan registered or deposited and he shall substitute the corrected plan for the original plan and thereafter the plan shall be deemed for all purposes to have been so corrected from the time of its registration or deposit, as the case may be. 1958, c. 49, s. 6.

Subdivision
plan areas,
designation

154.—(1) Where part of a parcel has been transferred by metes and bounds or as a part of a lot or block and the description of that part is, in the opinion of the director of titles, inadequate or inaccurate with respect to the common boundaries of that part and the adjacent parcels, he may issue a direction designating that parcel and any adjacent parcels as a subdivision plan area and, after the entry of the direction in the registers for the parcels affected, no transfer of any land in any of those parcels shall be registered without the consent in writing of the director of titles or his deputy until a plan of subdivision of the subdivision plan area has been registered.

Withdrawal

(2) Where a plan of subdivision of a subdivision plan area has been registered, the director of titles shall withdraw the direction issued in respect of that subdivision plan area and thereupon the registers for the parcels affected shall be amended accordingly. 1957, c. 58, s. 4, *part*.

Draft plan
of
subdivision

(3) Upon a direction being issued and entered under subsection 1, the director of titles, on behalf of the Attorney

General, shall apply *ex parte* to a judge of the county or district court of the county or district in which the subdivision plan area is situate for an order that a draft plan of subdivision of the subdivision plan area be prepared by an Ontario land surveyor from an actual survey and having regard to the records in the land titles office, and the judge may make such order. 1957, c. 58, s. 4, *part*; 1958, c. 49, s. 7.

(4) Where a draft plan of subdivision has been prepared pursuant to an order made under subsection 3, the director of titles may, upon notice to all persons interested, apply to a judge of the county or district court of the county or district in which the subdivision plan area is situate for an order that a plan of subdivision be prepared and registered in accordance with the regulations and incorporating such amendments to the draft plan of subdivision as the judge thinks proper, and the judge may make such order. Order for registration of judge's plan

(5) The judge, having regard to the nature of the case and the inadequacy of or errors contained in previous surveys of land in the subdivision plan area and to the general law relating to surveys of land, may in his order effect such alterations to the registered descriptions of the land as to him seem just and equitable, and the Assurance Fund is not thereby rendered liable. Idem

(6) An order made under this section may be appealed to the Court of Appeal. 1960, c. 56, s. 17 (1). Appeal

(7) No order shall be made under subsection 4 unless the Ontario land surveyor who prepared the draft plan of subdivision is available for examination and cross-examination at the hearing. Examination of Ontario land surveyor

(8) The costs and expenses of and incidental to the application and the preparation and registration of the plan of subdivision shall in the discretion of the judge be borne in whole or in part by the Crown or such person or municipality as is named by the judge in the order made under subsection 4 and, where the costs and expenses are ordered to be borne by a municipality, the judge may by his order direct repayment of them to the municipality by levy of a special rate by assessment on all the lots or blocks included in the plan. Costs and expenses

(9) Upon the registration of a plan of subdivision under this section, the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of the lots or blocks. 1957, c. 58, s. 4, *part*. Effect of registration of plan

(10) Where the judge orders the costs of and incidental to an application under this section to be borne in whole or in part by a registered owner of land in the subdivision plan area, the amount so ordered to be paid constitutes a charge Lien for costs

upon the land of the registered owner in favour of Her Majesty the Queen in right of Ontario represented by the director of titles, and, until paid, such charge ranks in priority to all registered charges on the land from and after the entry of the particulars of the charge in the register. 1960, c. 56, s. 17 (2).

Composite
plan

R.S.O. 1960,
c. 324

155.—(1) Where land has been or is granted by the Crown under *The Public Lands Act* and a plan of subdivision of the land has not been registered, an application on behalf of the Minister of Lands and Forests may be made to the proper master of titles to register a composite plan showing the land, and the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of the lots or blocks.

Idem

(2) Every composite plan shall conform as nearly as may be to a plan of subdivision under section 153 except that it shall be signed by the Surveyor General or his deputy on behalf of all persons having an interest in the land shown thereon. 1957, c. 58, s. 4, *part.*

Survey of
township
subsequent
to grant
from Crown

R.S.O. 1960,
c. 390

156.—(1) Where land in an unsurveyed township in a provisional judicial district has been or is granted by the Crown and the land is subsequently surveyed and laid out into lots and concessions in whole or in part, the survey shall be made in accordance with the provisions of *The Surveys Act* as made applicable by the terms of the patent or order in council granting the land, and the plan of survey shall be registered in the proper office of land titles.

Require-
ments as
to plans

(2) Such plan shall be prepared as nearly as may be in accordance with section 153. R.S.O. 1950, c. 197, s. 108, *amended.*

Plan re-
quired in
certain
cases

157.—(1) Where not otherwise provided by this Act and where,

- (a) a new boundary is created consisting of more than one line;
- (b) the owner has previously made one severance without survey;
- (c) a new boundary is in accordance with a fence, wall or other artificial enclosing device; or
- (d) in any other instance that the proper master of titles deems advisable,

a person applying for registration of a transfer of land shall, if the land is in a county, or may, if the land is in a provisional judicial district, deposit for record a plan to be known as a reference plan of survey certified by an Ontario land surveyor and signed by the registered owner in the prescribed form.

(2) Subsection 1 does not apply to land in a county if in the opinion of the proper master of titles concurred in by the director of titles the cost of compliance therewith would be excessive having regard to the value of the land. 1960, c. 56, s. 18 (1). Saving

(3) If the owner of land in a county neglects or refuses to comply with subsection 1, the proper master of titles may refuse to proceed with the registration of the transfer or dealing. R.S.O. 1950, c. 197, s. 109 (3). Effect of refusal

(4) A subsequent severance from land shown on a plan deposited under subsection 1 may be delineated upon a duplicate of the plan so deposited, and the plan so prepared shall be certified by an Ontario land surveyor and signed by the owner. 1958, c. 49, s. 8 (2). Subsequent severance

(5) New boundaries that are created by a severance shown on a reference plan and referred to or incorporated by reference in a registered instrument signed by the registered owner of the land shall be deemed to be true and unalterable boundaries and to be defined by the monuments shown thereon, but such monuments do not change or alter the position of any previously established boundary or prejudice prior registered rights or interests. 1960, c. 56, s. 18 (2). Boundaries

158. Where a plan of subdivision lays out a part of the land as a street, road, lane or common, it shall not be registered except on the application of the owner of the land subdivided with the consent in writing of all persons who are registered as mortgagees or chargees thereof. R.S.O. 1950, c. 197, s. 110. Plan of street, road, lane, or common

159.—(1) Where a street, road or lane laid out on a plan registered in a land titles office has become a public highway and has thereby become vested in a municipal corporation, the municipal corporation may apply to the proper master of titles to be entered as the owner thereof. Entry on register of municipal corporation as owner of streets laid out on plan

(2) Where a highway or part of it has been closed by the action of a municipal council and the highway or part of it has been transferred by the municipal corporation without the municipal corporation having been entered as owner of it, the transferee may apply to be entered as owner of the highway or part of it transferred to him and, upon due proof of the facts, the proper master of titles may enter such transferee as owner. R.S.O. 1950, c. 197, s. 71 (7, 8). Entry as owner of transferee from a municipal corporation of closed-up highway

160. Where a plan has been registered or recorded under this Act, every instrument affecting the land shown on the plan shall conform and refer thereto, otherwise it shall not be registered unless the proper master of titles under special circumstances deems it proper to register it. 1960, c. 56, s. 19. Instruments must conform to plan

Where
R.S.O. 1960,
c. 296
applies

161.—(1) No plan of survey or subdivision to which *The Planning Act* applies shall be registered unless approved under that Act. R.S.O. 1950, c. 197, s. 112.

Where
R.S.O. 1960,
c. 296
does not
apply

(2) Plans of subdivision registered under section 154 and composite plans registered under section 155 are not subject to the provisions of *The Planning Act* with respect to areas of subdivision control. 1957, c. 58, s. 4, *part*.

Effect and
amendment
of plan

162.—(1) No plan, although registered in an office of land titles, is binding on the person registering it or upon any other person, unless a sale has been made according to the plan, and in all cases amendments or alterations thereof may be ordered to be made at the instance of the person registering the plan or his assigns, or of the owner for the time being of any of the land covered by the plan,

- (a) by the court or by a judge thereof;
- (b) where the land is not in the County of York, by a judge of the county or district court of the county or district in which the land lies; or
- (c) where the land is in the County of York, by the master of titles,

if on application for the purpose duly made, and upon hearing all persons concerned, it is thought just so to order, and upon such terms and conditions as to costs and otherwise as are deemed just and expedient.

Who may
apply

(2) Such an application may be made either by the person filing the plan or by the owner for the time being of any of the land covered thereby.

Appeal

(3) An appeal lies from any decision made under this section to the Court of Appeal.

No alteration
or
closing of
street, etc.,
without
consent of
owner

(4) No part of a road, street, lane or alley upon which a lot abuts or that connects a lot with or affords access therefrom to the nearest public highway shall be altered or closed up without the consent of the owner of the lot, but nothing in this section interferes with the powers of municipal corporations with reference to highways. R.S.O. 1950, c. 197, s. 113, *amended*.

Plans of
re-sub-
division
may be
registered

(5) Nothing in this section prevents the registration of a plan of re-subdivision if, where a public highway is affected by the re-subdivision, the proper officers of the authority having jurisdiction and control over the highway consent to the plan. 1960, c. 56, s. 20.

Transfer of
plans from
registry
offices

163. Where all the lots on a plan of subdivision registered in a registry office are registered under this Act, the proper master of titles may require the registrar of deeds to deliver

the plan to him to be registered in his office and the registrar of deeds shall thereupon deliver it, taking a receipt therefor. R.S.O. 1950, c. 197, s. 114.

PART IX

FRAUD

164. Subject to the provisions of this Act, with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land that, if unregistered, would be fraudulent and void is, notwithstanding registration, fraudulent and void in like manner. R.S.O. 1950, c. 197, s. 125.

Fraudulent
dispositions

165. Every person who fraudulently procures, attempts to fraudulently procure or is privy to the fraudulent procurement of an entry on the register or of an erasure from the register or alteration of the register is guilty of an offence under this Act and on summary conviction is liable to imprisonment for a term of not more than two years, with or without hard labour, or to be fined such sum not exceeding \$1,000 as the court before which he is tried adjudges, and the entry, erasure or alteration is void as between all parties or privies to the fraud. R.S.O. 1950, c. 197, s. 126, *amended*.

Certain
fraudulent
acts
declared
to be
offences

166.—(1) Upon the conviction under this Act or under the criminal law of Canada of a person for an offence whereby he fraudulently procured an entry on the register by reason of which any person other than the rightful owner has become the registered owner of land, or by reason of which land under this Act has been wrongfully encumbered, the proper master of titles, on the application of the rightful owner, may cancel the wrongful entry and may enter the rightful owner as the registered owner of the land.

Cancellation
of fraudulent
entries

(2) If while the wrongful entry was subsisting on the register an innocent person has been registered as the owner of a charge upon or an estate, right or interest in the land, the proper master of titles, instead of cancelling the wrongful entry, may make an entry on the register stating the fact of the conviction and revesting the land in the rightful owner subject to the charge, estate, right or interest, and the land thereupon vests in the person named in the last-mentioned entry in accordance with its terms.

Where land
has been
transferred
to innocent
holder

(3) This section applies to past as well as future cases. R.S.O. 1950, c. 197, s. 122.

Application
of section

PART X

RECTIFICATION OF THE REGISTER

Entry of
caution by
master *sua*
sponte in
case of error

167.—(1) The proper master of titles may of his own accord and without affidavit enter a caution to prevent the dealing with registered land if it appears to him that an error has been made in an entry by misdescription of the land or otherwise.

Correction
of errors

(2) Subject to the rules, the proper master of titles, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, may correct errors and supply omissions in certificates of ownership or of charge, or in the register, or in an entry therein, and may call in any outstanding certificate for that purpose.

Restoration
of covenants
or conditions
and
compensa-
tion therefor

(3) Where the proper master of titles restores to the register any covenant or condition, he may do so with such modifications as he deems advisable so as to do the least possible injury to any person affected by its omission or restoration, and, upon notice to the Attorney General, at the same time or subsequently, may determine what damages, if any, shall be paid to any person claiming to have been injuriously affected by the omission or restoration of the covenant or condition. R.S.O. 1950, c. 197, s. 123, *amended*.

Court may
order
rectification

168. Subject to any estates or rights acquired by registration under this Act, where a court of competent jurisdiction has decided that a person is entitled to an estate, right or interest in or to registered land or a charge and as a consequence of the decision the court is of opinion that a rectification of the register is required, the court may make an order directing the register to be rectified in such manner as is deemed just. R.S.O. 1950, c. 197, s. 118.

Application
to court
to rectify

169. Subject to any estates or rights acquired by registration under this Act, if a person is aggrieved by an entry made, or by the omission of an entry from the register, or if default is made or unnecessary delay takes place in making an entry in the register, the person aggrieved by the entry, omission, default or delay may apply to the court for an order that the register be rectified, and the court may either refuse the application with or without costs to be paid by the applicant or may, if satisfied of the justice of the case, make an order for the rectification of the register. R.S.O. 1950, c. 197, s. 119.

Correction
of errors
in patents
after
registration
R.S.O. 1960,
o. 324

170. Where land has been registered under this Act and the Minister of Lands and Forests under *The Public Lands Act* directs an incorrect patent to be cancelled and a correct patent to be issued in its stead, the proper master of titles, upon

receipt of the correct patent, if no conflicting instrument has been received, shall amend the entry on the register to accord with the correct patent or, where a conflicting instrument has been received, the proper master of titles, after notifying all persons interested, may make such amendment. R.S.O. 1950, c. 197, s. 124.

171.—(1) Upon receiving a certificate of the Minister of Lands and Forests or the Deputy Minister of Lands and Forests that a reservation of any class or kind of tree in letters patent to registered land is void by statute, the proper master of titles shall delete the reservation from the register without application therefor. Deletion from register of reservation of trees in letters patent

(2) Upon receiving a certificate of the Minister of Mines or the Deputy Minister of Mines that a reservation of mines and minerals in letters patent to registered land issued before the 6th day of May, 1913, is void by statute, the proper master of titles shall delete the reservation from the register without application therefor. Deletion from register of reservation of mines and minerals in letters patent

(3) Upon receiving a certificate of the Minister of Lands and Forests or the Deputy Minister of Lands and Forests that a condition, proviso or reservation in letters patent to registered land, other than a reservation of any class or kind of tree or of mines and minerals, is void by statute, the proper master of titles shall delete the condition, proviso or reservation from the register without application therefor. Deletion from register of other reservations in letters patent

(4) Where an owner or former owner has attempted to transfer, charge or otherwise convey any mines or minerals reserved in letters patent to registered land issued before the 6th day of May, 1913, upon receiving a certificate of the Minister of Mines or Deputy Minister of Mines that the reservation in the letters patent is void by statute, the proper master of titles shall make all proper entries to define the interests of those appearing to be entitled to the mines or minerals. Transfer, charge, etc., of mines and minerals reserved

(5) No claim shall be sustained against the Assurance Fund respecting any right arising from any conveyance of mines or minerals reserved in letters patent issued before the 6th day of May, 1913. 1956, c. 38, s. 5. Claims against Assurance Fund

PART XI

RULES AND PROCEDURE

172.—(1) The Lieutenant Governor in Council or, subject to the approval of the Lieutenant Governor in Council, the Rules Committee under the authority of section 111 of *The* Power to make rules

R.S.O. 1960, c. 197, *Judicature Act*, which is to be read as applying to this Act, may make rules in respect of,

- (a) the mode in which the register is to be made and kept; R.S.O. 1950, c. 197, s. 142 (1), cl. (a).
- (b) the mode in which a companies register, a power of attorney register, the Department of Highways register or any other special register is to be made and kept; 1956, c. 38, s. 11 (1).
- (c) the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;
- (d) the custody of any instruments coming into an office of land titles, with power to direct the destruction of any of them where they have become altogether superseded by entries on the register or have ceased to have any effect; R.S.O. 1950, c. 197, s. 142 (1), cls. (b, c).
- (e) the duties that are to be performed by the director of titles, the master of titles, the local masters of titles and other officers, and which of them that may be done by other officers; 1956, c. 38, s. 11 (2).
- (f) the costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying out this Act, with power to require such costs to be payable by commission, percentage or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as is expedient;
- (g) the taxation of costs and the persons by whom the costs are to be paid;
- (h) any matter by this Act directed or authorized to be prescribed;
- (i) any other matter or thing, whether similar or not to those above mentioned, in respect of which it is deemed expedient to make rules for the purpose of carrying out this Act. R.S.O. 1950, c. 197, s. 142 (1), cls. (e-h).

Rules re-
specting
fees

(2) Rules may be made in like manner with respect to the amount of fees payable under this Act, and regard may be had,

- (a) in the case of the registration of land or of any transfer of land on the occasion of a sale, to the value of the land as determined by the amount of purchase money, or to the value of it to be ascertained in such manner as is prescribed;
- (b) in the case of registration of a charge or of a transfer of a charge, to the amount of the charge. R.S.O. 1950, c. 197, s. 142 (2).

173. Subject to the rules, the fees payable in respect of such business as is analogous to the business under *The Registry Act* shall be the same as the fees payable to the registrar under that Act, and all other fees and costs, whether in respect of business done by the director of titles, master of titles, local master of titles or by other officers, or by solicitors under this Act, shall be the same as nearly as may be as are payable in like proceedings in the court. R.S.O. 1950, c. 197, s. 143 (1), *amended*. Fees
R.S.O. 1960,
c. 348

174. Where notices or other proceedings are necessary, the local master of titles is entitled to charge, in addition to his disbursements, the like fees as are payable to the master of titles in respect of similar proceedings. R.S.O. 1950, c. 197, s. 164. Fees
payable
to local
masters

175. Subject to such regulations and exceptions and to the payment of such sums as are fixed by the rules, a person registered as owner of land or a charge and any person authorized by such an owner, or by an order of the court, or by the rules, but no other person, may inspect and make copies of and extracts from any document in the custody of the proper master of titles relating to the land or charge. R.S.O. 1950, c. 197, s. 141. Right
to inspect
document

176.—(1) Every person whose name is entered on the register as owner of freehold or leasehold land or of a charge, or as a cautioner, or as entitled to receive a notice, or in any other character, shall furnish a place of address in Ontario and may from time to time substitute some other place of address in Ontario for that originally furnished, and each instrument under this Act shall by endorsement thereon show the full name and place of residence, giving the street number, if any, of such person. R.S.O. 1950, c. 197, ss. 115 (1), 55 (1). Addresses
to be
furnished

(2) If a person fails to furnish a place of address for service, a notice sent by mail addressed to that person at the place named in the registered instrument under which he claims as his place of residence is sufficient unless the proper master of titles otherwise directs. In case
address not
furnished

Service of
notices

(3) Every notice by this Act required to be given to a person shall be served personally or sent by registered mail directed to such person at the last address furnished, and unless returned shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of mailing, as is prescribed.

Return of
notices

(4) The envelope containing a notice under this Act shall have printed thereon the words "Office of Land Titles" and a request for the return thereof to the office of land titles in case the person to whom the notice is addressed cannot be found.

Master
to act on
return of
notice

(5) On the return of an envelope containing a notice, the proper master of titles shall act in the matter requiring the notice to be given in the manner prescribed. R.S.O. 1950, c. 197, s. 115 (2-5).

Master to
furnish
municipality
with list
of transfers

177.—(1) Upon the request of the council of a municipality, the proper master of titles shall furnish annually, semi-annually or monthly in accordance with the request a list of all instruments by which land in the municipality has been transferred, charged or leased that have been registered in his office during the period specified in the request, and the list shall include, in respect of each such instrument, the names and addresses of the parties, the consideration and a short description of the land. 1954, c. 43, s. 3.

Fees

(2) The proper master of titles is entitled to a fee of 10 cents for every instrument entered in the list. R.S.O. 1950, c. 197, s. 55 (3).

Proceedings
not void
for want
of form

178. No application, order, affidavit, certificate, registration or other proceeding is invalid by reason of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1950, c. 197, s. 146.

Payment of
costs

179.—(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses incurred by or in consequence of his application, except where parties whose rights are sufficiently secured without their appearance object or where any costs, charges or expenses are incurred unnecessarily or improperly.

Scale of
costs

(2) The proper master of titles may order costs, either as between party and party or as between solicitor and client, to be paid by or to any person who is a party to a proceeding under this Act, and may give directions as to the fund out of which the costs shall be paid, regard being had to subsection 1.

Appeal from
master's
order

(3) Any person aggrieved by an order of the proper master of titles made under this section may appeal to the court, which may annul or, with or without modification, confirm the order.

(4) If a person disobeys an order of the proper master of titles made under this section, the proper master of titles may certify the disobedience to the court, and thereupon, subject to the right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the court. R.S.O. 1950, c. 197, s. 89.

Enforcement of order

(5) The amount of all costs, charges and expenses properly incurred by a trustee, mortgagee or other person having a power of selling land of and incidental to an application to be registered shall be ascertained and declared by the proper master of titles, and shall be deemed to be costs, charges and expenses properly incurred by that person in the execution of the trust or in pursuance of the power, and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he is not liable to an account in respect thereof. R.S.O. 1950, c. 197, s. 6 (3), *amended*.

Costs of application by trustee, etc.

180.—(1) Where after land has been registered special circumstances appear or subsequently arise that make it inexpedient that the land should continue under this Act, the owner may apply in the prescribed manner to the proper master of titles for the withdrawal of the land from the Act.

Application to withdraw registered land

(2) If the owner proves before the proper master of titles that all persons interested in the land proposed to be withdrawn consent to its withdrawal and satisfies the proper master of titles that special circumstances exist that render the withdrawal of the land or a part thereof expedient, the proper master of titles may issue a certificate describing the land or the part thereof as the consent covers and as the proper master of titles deems proper in such a manner that the certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued this Act ceases to apply to the land described therein, and the land thereafter is subject to the ordinary laws relating to real estate and to *The Registry Act*. R.S.O. 1950, c. 197, s. 133 (1, 2), *amended*.

Certificate by master

R.S.O. 1960, c. 348

(3) The certificate of the proper master of titles under this section is not valid unless approved and countersigned by the director of titles. R.S.O. 1950, c. 197, s. 133 (3); 1956, c. 38, s. 9, *amended*.

Certificate to be countersigned by director

(4) Upon the production of the certificate to the registrar of deeds and payment of a fee of \$1, the certificate shall be registered.

Registration of certificate

(5) This section does not apply to land registered under section 35. R.S.O. 1950, c. 197, s. 133 (4, 5).

Application of section

Certificates
as to taxes

R.S.O. 1960,
c. 23

181. Upon payment of the fee prescribed by section 146 of *The Assessment Act*, the treasurer of the proper municipality shall furnish a certificate of payment of taxes, charges, rates and assessments to any person requiring one in respect of land registered or with reference to which an application for registration is pending, and the certificate is binding upon the corporation of the municipality. R.S.O. 1950, c. 197, s. 139, *amended*.

CHAPTER 205

The Land Transfer Tax Act

1. In this Act,

Interpre-
tation

- (a) "collector" means the registrar of deeds, master of titles or local master of titles, as the case may be, to whom an instrument to which this Act applies is tendered for registration;
- (b) "land" includes tenements, realty, fixtures and good will;
- (c) "tax" means the tax imposed by this Act;
- (d) "Treasurer" means the Treasurer of Ontario. *New.*

2.—(1) Every person who tenders for registration a conveyance, deed, transfer or other instrument or writing whereby any land is granted, assigned, conveyed or otherwise transferred shall, before the conveyance, deed, transfer, instrument or writing is registered, pay a tax of one-fifth of 1 per cent upon the value of the consideration for the grant, assignment, conveyance or other transfer. R.S.O. 1950, c. 198, ss. 1 (1), 2; 1951, c. 44, s. 1, *amended.*

Imposition
of tax

(2) Where such an instrument may be registered in more than one registry office or land titles office, or in a registry office and a land titles office, the tax is payable once only in respect of any one transfer or conveyance, and is payable upon the first instrument registered in the transaction. R.S.O. 1950, c. 198, s. 1 (1, 2), *amended.*

Tax to be
payable on
one regis-
tration only

(3) No tax is payable by the Crown or by any foreign state. R.S.O. 1950, c. 198, s. 1 (3).

Exception

3. Every collector shall in the first week of each month send to the Treasurer a statement of the amount of tax collected by him during the previous month and shall pay over the amount thereof to the Treasurer for the uses of Ontario. R.S.O. 1950, c. 198, s. 3; 1951, c. 44, s. 2, *amended.*

Monthly
returns

4.—(1) There shall be filed with the collector an affidavit setting out the true consideration for the transfer or conveyance, and the true amount in cash and the value of any prop-

Affidavit

erty or security included in the consideration, and the amount or value of any lien or encumbrance subject to which the transfer or conveyance was made.

By whom to
be made

(2) The affidavit may be made by the transferor or transferee or by any person acting for either of them under a power of attorney, or by an agent accredited in writing by the transferor or transferee, or by the solicitor for either of them, or by some other person approved by the Treasurer.

What to
contain

(3) The affidavit shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with it the power of attorney or the accredited agent's authority, if any, referred to in subsection 2.

Reference
to
Comptroller
of Revenue

(4) If the collector is not satisfied that the affidavit sets out the true consideration for the transfer or conveyance, he may refuse to register the instrument to which the affidavit relates until the Comptroller of Revenue has signified over his signature that he is satisfied that the consideration stated in the affidavit is the true consideration.

When
vendor
liable for
tax

(5) Where the affidavit is made by the transferor or a person acting as attorney, agent or solicitor for the transferor, the transferor is personally liable to the Treasurer jointly and severally with the transferee for the amount of the tax.

Right of
vendor to
recover

(6) Where the transferor is compelled to pay the tax or a part thereof, he has the right to recover the amount so paid from the transferee in an action in any court of competent jurisdiction. R.S.O. 1950, c. 198, s. 4, *amended*.

Payment of
tax under
protest

5. Where the right of the collector to require payment of the tax is disputed by the person registering an instrument, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest and he shall thereupon refer the matter for the decision of the Treasurer or such official as the Treasurer appoints, who may order the refund of the tax or any part thereof to the person who paid it. R.S.O. 1950, c. 198, s. 7, *amended*.

Administra-
tion of oaths
R.S.O. 1960,
cc. 204, 348

6. A person authorized for a like purpose under *The Land Titles Act* or *The Registry Act* may administer an oath for any of the purposes of this Act. R.S.O. 1950, c. 198, s. 8.

Regulations

7. The Lieutenant Governor in Council may make regulations prescribing the form of affidavit referred to in section 4, and generally for the better carrying out of this Act. R.S.O. 1950, c. 198, s. 5.

CHAPTER 206

The Landlord and Tenant Act**1. In this Act,**Interpre-
tation

- (a) "crops" means all sorts of grain, grass, hay, hops, fruits, pulse and other products of the soil;
- (b) "landlord" includes lessor, owner, the person giving or permitting the occupation of the premises in question, and his and their heirs and assigns and legal representatives, and in Parts II and III also includes the person entitled to possession of the premises;
- (c) "standing crops" means crops standing or growing on the demised premises;
- (d) "tenant" includes lessee, occupant, sub-tenant, under-tenant, and his and their assigns and legal representatives. R.S.O. 1950, c. 199, s. 1.

PART I

2. The relation of landlord and tenant does not depend on tenure, and a reversion in the lessor is not necessary in order to create the relation of landlord and tenant, or to make applicable the incidents by law belonging to that relation; nor is it necessary, in order to give a landlord the right of distress, that there is an agreement for that purpose between the parties. R.S.O. 1950, c. 199, s. 2.

Relation of
landlord
and tenant

3. All persons being grantees or assignees of the Queen, or of any person other than the Queen, and the heirs, executors, successors and assigns of every of them, shall have and enjoy like advantage against the lessees, their executors, administrators, and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeiture, and also shall have and enjoy all and every such like and the same advantage, benefit, and remedies, by action only, for the non-performance of other conditions, covenants, or agreements, contained and expressed in the indentures of their said leases, demises or grants against all and every of the said lessees and grantees, their executors, administrators, and assigns as the said lessors

Remedies
available to
assignees of
reversion

or grantors themselves, or their heirs or successors, might have had and enjoyed at any time or times. R.S.O. 1950, c. 199, s. 3.

Lessee's
covenant to
run with
reversion

4. Rent reserved by a lease and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained shall be annexed and incident to and shall go with the reversionary estate in the land or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate, and shall be capable of being recovered, received, enforced and taken advantage of by any person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased. R.S.O. 1950, c. 199, s. 4.

Grantee of
reversion
may enforce
covenants

5. The benefit of every condition of re-entry or forfeiture for a breach of any covenant or condition contained in a lease shall extend to and be enforced and taken advantage of by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased, although that person became, by conveyance or otherwise, so entitled after the condition of re-entry or forfeiture had become enforceable. R.S.O. 1950, c. 199, s. 5.

Action of
covenant
etc., against
assigns of
grantors
and lessors

6. All lessees and grantees of lands, tenements, rents, portions, or any other hereditaments for term of years, life or lives, their executors, administrators, and assigns shall and may have like action, advantage, and remedy against all and every person who shall have any gift or grant of the Queen, or of any other persons, of the reversion of the same lands, tenements and other hereditaments so let, or any parcel thereof, for any condition, covenant, or agreement, contained or expressed in the indentures of their leases as the same lessees or any of them, might and should have had against their said lessors, and grantors, their heirs, or successors. R.S.O. 1950, c. 199, s. 6.

Lessor's
covenants
to run with
reversion

7. The obligation of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, or otherwise,

and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, such obligation may be taken advantage of and enforced against any person so entitled. R.S.O. 1950, c. 199, s. 7.

8. Notwithstanding the severance by conveyance, surrender or otherwise, of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cessor in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry and every other condition contained in the lease shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in any land which has not been surrendered, or as to which the term has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease. R.S.O. 1950, c. 199, s. 8.

Apportionment of conditions on severance etc.

9.—(1) On a contract to grant a lease for a term of years to be derived out of a leasehold interest, with a leasehold reversion, the intended lessee does not have the right to call for the title to that reversion.

On sub-demise title to leasehold reversion not to be required

(2) This section applies only if and as far as the contrary intention is not expressed in the contract, and has effect subject to the terms of the contract and to the provisions therein contained. R.S.O. 1950, c. 199, s. 9.

Saving

10. Where, in the intended exercise of any power of leasing, whether derived under a statute or under an instrument lawfully creating such power, a lease has been, or is hereafter granted that is, by reason of the non-observance or omission of some condition or restriction or by reason of any other deviation from the terms of such power, invalid as against the person entitled, after the determination of the interest of the person granting such lease, to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled to the land comprised in such lease, such lease, in case it was made in good faith and the lessee named therein, his heirs, executors, administrators, or assigns have entered thereunder, shall be considered a contract for a grant at the request of the lessee, his heirs, executors, administrators, or assigns of a valid lease under such power, to the like purport and effect as such invalid lease, save so far as any variation may be necessary in order to comply with the terms of such power, and all persons who would have been bound by a lease lawfully granted under such power are

Effect of lease where there is a deviation from terms of the power to demise

bound by such contract; but no lessee under any such invalid lease, his heirs, executors, administrators, or assigns, are entitled by virtue of any such contract to obtain any variation of such lease, where the persons who would have been bound by such contract are willing to confirm such lease without variation. R.S.O. 1950, c. 199, s. 10.

What may
be deemed a
confirmation
of invalid
lease

11. Where, upon or before the acceptance of rent under any such invalid lease, any receipt, memorandum or note in writing confirming such lease is signed by the person accepting such rent, or some other person by him thereunto lawfully authorized, such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease. R.S.O. 1950, c. 199, s. 11.

Duty of
lessee to
accept con-
firmation

12. Where, during the continuance of the possession taken under any such invalid lease, the person for the time being entitled, subject to such possession, to the land comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, the lessee, his heirs, executors, or administrators, or any person who would have been bound by the lease if it had been valid, upon the request of the person so able to confirm it, is bound to accept a confirmation accordingly, and such confirmation may be by memorandum or note in writing signed by the persons confirming and accepting or by some other persons by them thereunto lawfully authorized, and, after confirmation and acceptance of confirmation, such lease is valid and shall be deemed to have had from the granting thereof the same effect as if it had been originally valid. R.S.O. 1950, c. 199, s. 12.

Effect of
invalid
leases if
grantor
continues in
ownership
until he
might law-
fully grant
the lease

13. Where a lease granted in the intended exercise of a power of leasing is invalid by reason that, at the time of granting the lease, the person granting the lease could not lawfully grant the lease, but the estate of such person in the land comprised in the lease has continued after the time when the lease, or the like lease, might have been granted by him in the lawful exercise of such power, the lease takes effect and is as valid as if it had been granted at such last mentioned time, and all the provisions of sections 10 to 15 apply to every such lease. R.S.O. 1950, c. 199, s. 13.

What shall
be deemed
an intended
exercise of
a power

14. Where a valid power of leasing is vested in, or may be exercised by, a person granting a lease, and, by reason of the determination of the estate or interest of such person or otherwise, the lease cannot have effect and continuance according to the terms thereof independently of such power, the lease shall for the purposes of sections 10 to 13 be deemed to be

granted in the intended exercise of such power although such power is not referred to in the lease. R.S.O. 1950, c. 199, s. 14.

15. Nothing in sections 10 to 14 extends to, prejudices or takes away any right of action, or other right or remedy to which, but for sections 10 to 14, the lessee named in any such lease, his heirs, executors, administrators or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in the lease on the part of the person granting the lease, or prejudices or takes away any right of re-entry or other right or remedy to which, but for such sections, the person granting the lease, his heirs, executors, administrators or assigns, or other person, for the time being entitled to the reversion expectant on the determination of the lease, would or might have been entitled for or by reason of any breach of the covenants, conditions, or provisos contained in the lease, and on the part of the lessee, his heirs, executors, administrators or assigns to be observed and performed. R.S.O. 1950, c. 199, s. 15.

Saving the rights of the lessees under certain covenants and the lessor's right of re-entry

16. Where the reversion expectant on a lease of land merges or is surrendered, the estate which for the time being confers as against the tenant under the lease the next vested right to the land shall, to the extent of and for preserving such incidents to and obligations on the reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the lease. R.S.O. 1950, c. 199, s. 16.

Effect of surrender or merger of reversion expectant in certain cases

17.—(1) In every demise, whether by parol or in writing and whenever made, unless it is otherwise agreed, there shall be deemed to be included an agreement that if the rent reserved, or any part thereof, remains unpaid for fifteen days after any of the days on which it ought to have been paid, although no formal demand thereof has been made, it is lawful for the landlord at any time thereafter to re-enter into and upon the demised premises or any part thereof in the name of the whole and to have again, re-possess and enjoy the same as of his former estate.

Right of re-entry on nonpayment of rent

(2) In every such demise there shall be deemed to be included an agreement that if the tenant or any other person is convicted of keeping a disorderly house within the meaning of the *Criminal Code* (Canada) on the demised premises or any part thereof, it is lawful for the landlord at any time thereafter to re-enter into the demised premises or any part thereof and to have again, re-possess and enjoy the same as of his former estate. R.S.O. 1950, c. 199, s. 17.

Implied agreement for re-entry on conviction of tenant for keeping disorderly house

1953-54, o. 51 (Can.)

Interpre-
tation

18.—(1) In this section and in sections 19 to 22,

- (a) “action” includes any proceedings under Part III;
- (b) “lease” includes an original or derivative under-lease and a grant at a fee farm rent or securing a rent by condition and an agreement for a lease where a lessee has become entitled to have his lease granted;
- (c) “lessee” includes an original or derivative under-lessee and the heirs, executors, administrators and assigns of a lessee and a grantee under such a grant and his heirs and assigns;
- (d) “lessor” includes an original derivative under-lessor and the heirs, executors, administrators and assigns of a lessor and a grantor under such a grant and his heirs and assigns;
- (e) “mining lease” means a lease for mining purposes, that is a searching for, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away or disposing of mines or minerals, and substances in, on or under the land, obtainable by underground or by surface working or purposes connected therewith, and includes a grant or licence for mining purposes;
- (f) “under-lease” includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted;
- (g) “under-lessee” includes any person deriving title under or from an under-lessee.

Restrictions
on and relief
against
forfeiture
of leases

(2) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease, other than a proviso in respect of the payment of rent, is not enforceable by action, entry, or otherwise, unless the lessor serves on the lessee a notice specifying the particular breach complained of, and, if the breach is capable of remedy, requiring the lessee to remedy the breach, and, in any case, requiring the lessee to make compensation in money for the breach, and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the lessor for the breach. R.S.O. 1950, c. 199, s. 18.

Relief
against
forfeiture

19.—(1) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture, whether for non-payment of rent or for other cause, the lessee may, in the lessor's action, if any, or if there is no such action pending, then in an action or summary application to a judge of the

Supreme Court brought by himself, apply to the court for relief, and the court may grant such relief as, having regard to the proceedings and conduct of the parties under section 18 and to all the other circumstances, the court thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future as the court deems just.

(2) This section and section 18 apply, although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of the directions of a statute. Where right of entry is under a statute

(3) For the purposes of this section, a lease limited to continue only as long as the lessee abstains from committing a breach of covenant is and takes effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach. Lease until breach

(4) Where the action is brought to enforce a right of re-entry or forfeiture for non-payment of rent and the lessee, at any time before judgment, pays into court all the rent in arrear and the costs of the action, the proceedings in the action are forever stayed. When proceedings may be stayed

(5) Where relief is granted under this section, the lessee shall hold and enjoy the demised premises according to the lease thereof made without any new lease. Position of lessee

(6) This section applies to leases made either before or after the commencement of this Act and applies notwithstanding any stipulation to the contrary. Application of section

(7) This section does not extend, Exceptions

(a) to a covenant or condition against the assigning, under-letting, parting with the possession, or disposing of the land leased; or to a condition for forfeiture on the bankruptcy of the lessee, or on the lessee making an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or on the taking in execution of the lessee's interest; or R.S.O. 1960. c. 25

(b) in the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof.

(8) Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there Condition for relief for non-insurance

is not an insurance on foot in conformity with the covenant or condition to insure except, in addition to any other terms that the court may impose, upon the term that the insurance is effected. R.S.O. 1950, c. 199, s. 19.

Protection
of under-
lessees on
forfeiture of
superior
lease

20. Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, the court, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, either in the lessor's action, if any, or in any action or summary application to a judge of the Supreme Court brought by such person for that purpose, may make an order vesting for the whole term of the lease or any less term the property comprised in the lease, or any part thereof, in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rents, costs, expenses, damages, compensation, giving security or otherwise as the court in the circumstances of each case thinks fit; but in no case is any such under-lessee entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease. R.S.O. 1950, c. 199, s. 20.

Who must
be parties to
an action to
enforce right
of re-entry
or forfeiture

21. Where a lessor is proceeding by action to enforce a right of re-entry or forfeiture under a covenant, proviso or stipulation in a lease, every person claiming any right, title or interest in the demised premises under the lease, if it is known to the lessor that he claims such right or interest or if the instrument under which he claims is registered in the proper registry or land titles office, shall be made a party to the action. R.S.O. 1950, c. 199, s. 21.

Licence to
assign not
to be un-
reasonably
withheld

22.—(1) In every lease made after the 1st day of September, 1911, containing a covenant, condition or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property leased without licence or consent, such covenant, condition or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that such licence or consent is not to be unreasonably withheld.

Application
to court
where
consent to
assignment
or sub-
letting
withheld

(2) Where the landlord refuses or neglects to give a licence or consent to an assignment or sub-lease, a judge of the county or district court, upon the application of the tenant or of the assignee or sub-tenant, made by way of originating notice according to the practice of the court, may make an order determining whether or not the licence or consent is unreasonably withheld and, where the judge is of opinion that the licence or consent is unreasonably withheld, permit-

ting the assignment or sub-lease to be made, and such order is the equivalent of the licence or consent of the landlord within the meaning of any covenant or condition requiring the same and such assignment or sub-lease is not a breach thereof. R.S.O. 1950, c. 199, s. 22.

23. Where a licence to do any act that, without such licence, would create a forfeiture, or give a right to re-enter under a condition or power reserved in a lease, is given to a lessee or his assigns, every such licence, unless otherwise expressed, extends only to the permission actually given, or to any specific breach of any proviso or covenant, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but does not prevent a proceeding for any subsequent breach unless otherwise specified in such licence, and all rights under covenants and powers of forfeiture and re-entry in the lease remain in full force and virtue, and are available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made dispunishable by such licence, in the same manner as if no such licence had been given, and the condition or right of re-entry remains in all respects as if such licence had not been given, except in respect of the particular matter authorized to be done. R.S.O. 1950, c. 199, s. 23.

Restriction of effect of licence under power contained in lease, etc.

24. Where in a lease there is a power or condition of re-entry on assigning or underletting or doing any other specified act without licence, and a licence has been or is given to one of several lessees or co-owners to assign or underlet his share or interest, or to do any other act prohibited to be done without licence, or has been or is given to a lessee or owner, or any one of several lessees or owners, to assign or underlet part only of the property, or to do any other such act in respect of part only of the property, such licence does not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees or owner or owners of the other shares or interest in the property, or by the lessee or owner of the rest of the property, over or in respect of such shares or interest or remaining property, but such right of re-entry remains in full force over or in respect of the shares or interests or property not the subject of such licence. R.S.O. 1950, c. 199, s. 24.

Restricted operation of partial licences

25. Where an actual waiver of the benefit of a covenant or condition in a lease, on the part of a lessor or his heirs, executors, administrators or assigns, is proved to have taken place in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which such waiver

Restriction of effect of waiver of covenant

specially relates, nor to be a general waiver of the benefit of any such covenant or condition unless an intention to that effect appears. R.S.O. 1950, c. 199, s. 25.

Covenant to pay taxes not to include taxes for local improvements

26.—(1) Unless it is otherwise specifically provided in a lease made after the 1st day of September, 1897, a covenant by a lessee for payment of taxes shall not be deemed to include an obligation to pay taxes assessed for local improvements.

Effect of altering form of covenant R.S.O. 1960, c. 373

(2) In the case of a lease made under *The Short Forms of Leases Act* where the words "except for local improvements" are struck out or omitted from the covenant number 3 in Schedule B of that Act, such striking out or omission shall be deemed to be a specific provision otherwise made within the meaning of subsection 1. R.S.O. 1950, c. 199, s. 26.

Notice to quit in case of weekly or monthly tenancies

27. A week's notice to quit and a month's notice to quit, respectively, ending with the week or the month, is sufficient notice to determine, respectively, a weekly or monthly tenancy. R.S.O. 1950, c. 199, s. 27.

Penalty on tenant receiving writ for recovery of land and not notifying his landlord

28. Every tenant to whom a writ in an action for the recovery of land has been delivered, or to whose knowledge it comes, shall forthwith give notice thereof to his landlord, or to his landlord's bailiff or receiver, and, if he omits so to do, he is answerable to his landlord for all damages sustained by him by reason of the failure to give such notice. R.S.O. 1950, c. 199, s. 28.

Exemption of goods

29.—(1) The goods and chattels exempt from seizure under execution are not liable to seizure by distress by a landlord for rent, except as hereinafter provided.

Monthly tenancies

(2) In the case of a monthly tenancy, the exemption only applies to two months arrears of rent.

Selection of exempted goods

(3) The person claiming the exemption shall select and point out the goods and chattels that he claims to be exempt. R.S.O. 1950, c. 199, s. 29.

Interpretation

30.—(1) In this section, subject to section 31, "tenant" includes a sub-tenant and the assigns of the tenant and any person in actual occupation of the premises under or with the assent of the tenant during the currency of the lease, or while the rent is due or in arrear, whether or not he has attorned to or become the tenant of the landlord.

Goods on premises not property of tenant to be exempt

(2) A landlord shall not distrain for rent on the goods and chattels of any person except the tenant or person who is liable for the rent, although the same are found on the premises; but this restriction does not apply in favour of a person

claiming title under an execution against the tenant, or in favour of a person whose title is derived by purchase, gift, transfer, or assignment from the tenant, whether absolute or in trust, or by way of mortgage or otherwise, nor to the interest of the tenant in any goods or chattels on the premises in the possession of the tenant under a contract for purchase, or by which he may or is to become the owner thereof upon performance of any condition, nor where goods or chattels have been exchanged between tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord, nor does the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law, or son-in-law of the tenant, or by any other relative of his, if such other relative lives on the premises as a member of the tenant's family, or by any person whose title is derived by purchase, gift, transfer or assignment from any relative to whom the restriction does not apply.

(3) Nothing in this section exempts from distress goods or chattels in a store or shop managed or controlled by an agent or clerk for the owner of the goods or chattels where the clerk or agent is also the tenant and in default, and the rent is due in respect of the store or shop or premises rented therewith and thereto belonging, if the goods or chattels would have been liable to seizure but for this Act. R.S.O. 1950, c. 199, s. 30.

Goods in store managed by agent who is in default

31.—(1) In this section, “under-tenant” means a tenant to whom the premises or some part of the premises in respect of which rent is distrained for have been sub-let with the consent of the superior landlord or in default of such consent under the order of the judge of the county or district court as provided by subsection 2 of section 22.

Interpretation

(2) If a superior landlord distrains or threatens to distrain any goods or chattels of an under-tenant, boarder or lodger for arrears of rent due to him by his immediate tenant, the under-tenant, boarder or lodger may serve the superior landlord, or the bailiff or other person employed by him to levy the distress, with a statutory declaration made by the under-tenant, boarder or lodger setting forth that the immediate tenant has no right of property or beneficial interest in such goods or chattels, and that they are the property or in the lawful possession of the under-tenant, boarder or lodger, and also setting forth whether any and what amount by way of rent, board or otherwise is due from the under-tenant, boarder or lodger to the immediate tenant, and to the declaration shall be annexed a correct inventory, subscribed by the under-tenant, boarder or lodger, of the goods and chattels mentioned in the declaration, and the under-tenant, boarder or lodger may pay to the

Declaration by boarder, under-tenant, or lodger that immediate tenant has no property in goods distrained

superior landlord, or to the bailiff or other person employed by him, the amount if any, so due, or so much thereof as is sufficient to discharge the claim of the superior landlord.

Penalty for improper levy

(3) If the superior landlord, bailiff or other person, after being served with the declaration and inventory, and after the under-tenant, boarder or lodger has paid or tendered to him the amount, if any, which by subsection 2 the under-tenant, boarder or lodger is authorized to pay, levies or proceeds with a distress on the goods or chattels of the under-tenant, boarder or lodger, the superior landlord, bailiff or other person is guilty of an illegal distress, and the under-tenant, boarder or lodger may replevy the goods or chattels in any court of competent jurisdiction, and the superior landlord is also liable to an action, at the suit of the under-tenant, boarder or lodger, in which the truth of the declaration and inventory may be inquired into.

Effect of payments by under-tenant, boarder or lodger

(4) Any payment made by an under-tenant, boarder or lodger pursuant to subsection 2 is a valid payment on account of the amount due from him to the immediate tenant. R.S.O. 1950, c. 199, s. 31.

Duty of tenant claiming exemption to surrender premises

32.—(1) A tenant in default for non-payment of rent is not entitled to the benefit of the exemption provided for by section 29 unless he gives up possession of the premises forthwith or is ready and offers to do so.

To whom offer of surrender to be made

(2) The offer may be made to the landlord or to his agent, and the person authorized to seize and sell the goods and chattels, or having the custody of them for the landlord, shall be considered an agent of the landlord for the purpose of the offer and surrender to the landlord of possession. R.S.O. 1950, c. 199, s. 32.

Seizure of exempted goods

33.—(1) Where a landlord desires to seize exempted goods, he shall, after default has been made in the payment of rent and before or at the time of seizure, serve the tenant with a notice (Form 1).

Effect of surrender of possession

(2) The surrender of possession in pursuance of the notice is a determination of the tenancy. R.S.O. 1950, c. 199, s. 33.

Right of set-off

34.—(1) A tenant may set off against the rent due a debt due to him by the landlord.

Notice thereof

(2) Notice of the claim of set-off (Form 2) may be given before or after the seizure.

Effect of notice

(3) When the notice is given, the landlord is entitled to distrain, or to proceed with the distress, only for the balance of the rent after deducting any debt justly due by him to the

tenant that is mentioned in the notice. R.S.O. 1950, c. 199, s. 34.

35.—(1) Service of notices under sections 27, 33 and 34 shall be made either personally or by leaving the same with a grown-up person in and apparently residing on the premises occupied by the person to be served. Service of notices

(2) If the tenant cannot be found and his place of abode is not known, or admission thereto cannot be obtained, the posting up of the notice on some conspicuous part of the premises is good service. Posting up notice in lieu of service R.S.O. 1950, c. 199, s. 35.

36. No proceeding under sections 32 to 35 shall be rendered invalid by any defect in form. Formal defects not to invalidate R.S.O. 1950, c. 199, s. 36.

37.—(1) In case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the preferential lien of the landlord for rent is restricted to the arrears of rent due during the period of three months next preceding, and for three months following the execution of the assignment, and from thence so long as the assignee retains possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the assignee, liquidator or trustee for the period of his occupation. Lien of landlord in bankruptcy etc.

(2) Notwithstanding any provision, stipulation or agreement in any lease or agreement or the legal effect thereof, in case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the assignee, liquidator or trustee may at any time within three months thereafter for the purposes of the trust estate and before he has given notice of intention to surrender possession or disclaim, by notice in writing elect to retain the leased premises for the whole or any portion of the unexpired term and any renewal thereof, upon the terms of the lease and subject to the payment of the rent as provided by the lease or agreement, and he may, upon payment to the landlord of all arrears of rent, assign the lease with rights of renewal, if any, to any person who will covenant to observe and perform its terms and agree to conduct upon the demised premises a trade or business which is not reasonably of a more objectionable or hazardous nature than that which was thereon conducted by the debtor, and who on application of the assignee, liquidator or trustee, is approved by a judge of the Supreme Rights of assignee

Court as a person fit and proper to be put in possession of the leased premises. R.S.O. 1950, c. 199, s. 37.

**Election to
surrender**

38.—(1) The assignee, liquidator or trustee has the further right, at any time before so electing, by notice in writing to the landlord, to surrender possession or disclaim any such lease, and his entry into possession of the leased premises and their occupation by him, while required for the purposes of the trust estate, shall not be deemed to be evidence of an intention on his part to elect to retain possession pursuant to section 37.

**Rights of
sub-tenants**

(2) Where the assignor, or person or firm against whom a receiving order has been made in bankruptcy, or a winding up order has been made, being a lessee, has, before the making of the assignment or such order demised any premises by way of under-lease, approved or consented to in writing by the landlord, and the assignee, liquidator or trustee surrenders, disclaims or elects to assign the lease, the under-lessee, if he so elects in writing within three months of such assignment or order, stands in the same position with the landlord as though he were a direct lessee from the landlord but subject, except as to rental payable, to the same liabilities and obligations as the assignor, bankrupt or insolvent company was subject to under the lease at the date of the assignment or order, but the under-lessee shall in such event be required to covenant to pay to the landlord a rental not less than that payable by the under-lessee to the debtor, and if such last mentioned rental was greater than that payable by the debtor to the said landlord, the under-lessee shall be required to covenant to pay to the landlord the like greater rental.

**Settlement
of disputes**

(3) In the event of any dispute arising under this section or section 37, the dispute shall be disposed of by a judge of the Supreme Court upon a summary application. R.S.O. 1950, c. 199, s. 38.

**Distress for
rents seck**

39. Every person has the like remedy by distress and by impounding and selling the property distrained in cases of rents seck as in case of rent reserved upon lease. R.S.O. 1950, c. 199, s. 39.

**Distress for
arrears on
leases
determined**

40. A person having any rent due and in arrear, upon any lease for life or lives or for years, or at will, ended or determined, may distrain for such arrears, after the determination of the lease, in the same manner as he might have done if the lease had not been ended or determined, if such distress is made within six months after the determination of the lease, and during the continuance of the landlord's title or interest, and during the possession of the tenant from whom the arrears became due. R.S.O. 1950, c. 199, s. 40.

41. A person entitled to any rent or land for the life of another may recover by action or distress the rent due and owing at the time of the death of the person for whose life such rent or land depended as he might have done if the person by whose death the estate in such rent or land determined had continued in life. R.S.O. 1950, c. 199, s. 41. Right of persons entitled to rent during life of another to recover same after death

42. Distress shall be reasonable. R.S.O. 1950, c. 199, s. 42. Distress to be reasonable

43. A person having rent due and in arrear upon any demise, lease, or contract may seize and secure any sheaves or cocks of grain, or grain loose, or in the straw, or hay, lying or being in any barn or granary or otherwise upon any part of the land charged with such rent, and may lock up or detain the same in the place where the same is found, for or in the nature of a distress until the same is replevied, and in default of the same being replevied, may sell the same after appraisement thereof is made; but such grain or hay so distrained shall not be removed by the person distraining, to the damage of the owner thereof out of the place where the same is found and seized, but shall be kept there, as impounded, until it is replevied or sold in default of replevying. R.S.O. 1950, c. 199, s. 43. Right to distrain grain, etc.

44.—(1) A landlord may take and seize, as a distress for arrears of rent, any cattle or live stock of his tenant feeding or pasturing upon any highway, or on any way belonging to the demised premises or any part thereof. Right to distrain cattle or live stock

(2) Subject to subsection 4, a landlord may take and seize standing crops as a distress for arrears of rent, and may cut, gather, make, cure, carry and lay up the same, when ripe, in the barns or other proper place on the demised premises and, if there is no barn or proper place on the demised premises, then in any other barn or proper place which the landlord hires or otherwise procures for that purpose as near as may be to the premises, and may in convenient time appraise, sell or otherwise dispose of the same towards satisfaction for the rent for which the distress is made, and of the charges of the distress, appraisement and sale in the same manner as other goods and chattels may be seized, distrained and disposed of, and the appraisement thereof shall be taken when cut, gathered, cured and made and not before. Distress of standing crops

(3) Notice of the place where the goods and chattels so distrained are lodged or deposited shall, within one week after the lodging or depositing thereof, be given to the tenant or left at his last place of abode. Tenant's right to notice of place of keeping

(4) If, after a distress of standing crops so taken for arrears of rent, and at any time before the same are ripe and cut, cured or gathered, the tenant pays to the landlord for whom Satisfying distress of standing crops

the distress is taken the whole rent then in arrear, with the full costs and charges of making the distress and occasioned thereby, then, upon such payment or lawful tender thereof, the same and every part thereof shall cease, and the standing crops so distrained shall be delivered up to the tenant.

Sale of
standing
crop

(5) Where standing crops are distrained for rent they may, at the option of the landlord, be advertised and sold in the same manner as other goods, and it is not necessary for the landlord to reap, thresh, gather or otherwise market them.

Liability of
purchaser of
standing
crops

(6) Any person purchasing standing crops at such sale is liable for the rent of the land upon which they are standing at the time of the sale, and until they are removed, unless the rent has been paid or has been collected by the landlord, or has been otherwise satisfied, and the rent shall, as nearly as may be, be the same as that which the tenant whose goods were sold was to pay, having regard to the quantity of land, and to the time during which the purchaser occupies it. R.S.O. 1950, c. 199, s. 44.

Conditional
exemption
of certain
beasts

45. Beasts that gain the land and sheep shall not be distrained if there are other chattels sufficient to satisfy the demand. R.S.O. 1950, c. 199, s. 45.

WHERE DISTRESS MAY BE TAKEN

Chattels not
to be
distrained
off the
premises

46. Save as herein otherwise provided, goods or chattels that are not at the time of the distress upon the premises in respect of which the rent distrained for is due, shall not be distrained for rent. R.S.O. 1950, c. 199, s. 46.

FRAUDULENT REMOVAL

Landlords
may dis-
train goods
fraudulently
carried off
the premises

47.—(1) Where any tenant, for life or lives, term of years, at will, sufferance or otherwise, of any messuages, lands, tenements or hereditaments, upon the demise or holding whereof any rent is reserved, due, or made payable, fraudulently or clandestinely conveys away, or carries off or from the premises his goods or chattels to prevent the landlord from distraining them for arrears of rent so reserved, due, or made payable, the landlord or any person by him for that purpose lawfully empowered, may, within thirty days next ensuing such conveying away or carrying off, take and seize such goods and chattels wherever they are found, as a distress for such arrears of rent, and sell or otherwise dispose of them in such manner as if they had actually been distrained by the landlord upon such premises for such arrears of rent.

Exception

(2) No landlord or other person entitled to such arrears of rent shall take or seize, as a distress for the same, any such

goods or chattels that have been sold in good faith and for a valuable consideration, before such seizure made, to any person not privy to such fraud. R.S.O. 1950, c. 199, s. 47.

48. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant, his servant, or agent, or other person aiding or assisting therein, are or are believed to be in any house, barn, stable, outhouse, yard, close or place, locked up, fastened or otherwise secured so as to prevent them from being taken and seized as a distress for arrears of rent, the landlord or his agent may take and seize, as a distress for rent, such goods and chattels, first calling to his assistance a peace officer who is hereby required to aid and assist therein, and, in case of a dwelling house, oath being also first made of a reasonable ground to believe that such goods or chattels are therein, and, in the daytime, break open and enter into such house, barn, stable, outhouse, yard, close or place and take and seize such goods and chattels for the arrears of rent as he might have done if they were in an open field or place upon the premises from which they were so conveyed or carried away. R.S.O. 1950, c. 199, s. 48.

Right of landlord to break open houses where goods fraudulently secured

49. If a tenant so fraudulently removes, conveys away or carries off his goods or chattels, or if any person wilfully and knowingly aids or assists him in so doing, or in concealing them, every person so offending shall forfeit and pay to the landlord double the value of such goods or chattels, to be recovered by action in any court of competent jurisdiction. R.S.O. 1950, c. 199, s. 49.

Penalty for fraudulently removing, or assisting to remove, goods

50.—(1) Beasts or cattle distrained shall not be removed or driven out of the city, town, village or township in which they were distrained, except to a fitting pound or enclosure in the same county or district not more than three miles distant from the place where the distress was taken.

Beasts, distrained not to be driven out of the municipality

(2) No cattle or other goods or chattels distrained or taken by way of distress for any cause at one time shall be impounded in several places.

Impounding

(3) Every person contravening this section shall forfeit to the person aggrieved \$20 in addition to the damages sustained by him.

Penalty

(4) Any person lawfully taking any distress for any kind of rent may impound or otherwise secure the distress so made in such place or on such part of the premises chargeable with the rent as is most fit and convenient for that purpose, and may appraise, sell and dispose of the same upon the premises, and it is lawful for any person to come and go to and from

Where goods may be impounded

such place or part of the premises where any distress for rent is so impounded and secured to view, appraise and buy, and to carry off or remove the same on account of the purchaser thereof. R.S.O. 1950, c. 199, s. 50.

Pound
breach or
rescue

51. Upon any pound breach or rescue of goods or chattels distrained for rent, the person offending or the owner of the goods distrained in case they are afterwards found to have come to his use or possession, shall forfeit to the person aggrieved \$20 in addition to the damages sustained by him. R.S.O. 1950, c. 199, s. 51.

Sale of
distress,
when it may
be made

52. Where any goods or chattels are distrained for any rent reserved and due upon any demise, lease or contract, and the tenant or owner of them does not, within five days next after such distress taken and notice thereof, with the cause of such taking, left at the dwelling house or other most conspicuous place on the premises charged with the rent distrained for, replevy the same, then, after such distress and notice and the expiration of such five days, the person distraining shall cause the goods and chattels so distrained to be appraised by two appraisers, who shall first be sworn to appraise them truly, according to the best of their understandings, a memorandum of which oath is to be endorsed on the inventory, and after such appraisement the person so distraining may lawfully sell the goods and chattels so distrained for the best price that can be got for them towards satisfaction of the rent for which they were distrained and of the charges of such distress, appraisement and sale, and shall hold the overplus, if any, for the owner's use and pay it over to him on demand. R.S.O. 1950, c. 199, s. 52.

Irregulari-
ties not to
make dis-
tress void
ab initio

53. Where a distress is made for any kind of rent justly due, and any irregularity or unlawful act is afterwards done by the person distraining, or by his agent, or if there has been an omission to make the appraisement under oath, the distress itself shall not be therefore deemed to be unlawful, nor the person making it be deemed a trespasser *ab initio*, but the person aggrieved by the unlawful act or irregularity may recover by action full satisfaction for the special damage sustained thereby. R.S.O. 1950, c. 199, s. 53.

Wrongful
distress

54.—(1) A distrainer who takes an excessive distress, or takes a distress wrongfully, is liable in damages to the owner of the goods or chattels distrained.

Where no
rent due

(2) Where a distress and sale are made for rent pretended to be in arrear and due when, in truth, no rent is in arrear or due to the person distraining, or to the person in whose name or right such distress is taken, the owner of the goods or chat-

tels distrained and sold, his executors or administrators are entitled, by action to be brought against the person so distraining, to recover full satisfaction for the damage sustained by the distress and sale. R.S.O. 1950, c. 199, s. 54.

55.—(1) Goods or chattels lying or being in or upon any land leased for life or lives, or term of years, at will, or otherwise are not liable to be taken by virtue of any execution issued out of the Supreme Court or out of a county or district court on any pretence whatsoever, unless the party at whose suit the execution is sued out before the removal of such goods or chattels from the premises by virtue of such execution pays to the landlord or his bailiff all money due for rent of the premises at the time of the taking of such goods or chattels by virtue of such execution if the arrears of rent do not amount to more than one year's rent.

Goods taken in execution not to be removed till rent paid

(2) If such arrears exceed one year's rent, the party at whose suit such execution is sued out, on paying the landlord or his bailiff one year's rent, may proceed to execute his judgment.

When execution may be proceeded with

(3) The sheriff or other officer shall levy and pay to the execution creditor as well the money so paid for rent as the execution money. R.S.O. 1950, c. 199, s. 55.

What to be paid to execution creditor

56. Where all or any part of the standing crops of the tenant of any land is seized and sold by a sheriff or other officer by virtue of a writ of execution, such crops, so long as they remain on the land in default of sufficient distress of the goods and chattels of the tenant, are liable for the rent that may accrue and become due to the landlord after any such seizure and sale, and to the remedies by distress for recovery of such rent, and that notwithstanding any bargain and sale or assignment that may have been made or executed of such crops by any such sheriff or other officer. R.S.O. 1950, c. 199, s. 56.

Liability of growing crops seized and sold under execution for accruing rent

57. Where a tenant for any term for life, lives or years, or other person who comes into possession of any land, by, from, or under, or by collusion with such tenant, wilfully holds over such land or any part thereof after the determination of such term, and after notice in writing given for delivering the possession thereof by his landlord or the person to whom the remainder or reversion of such land belongs or his agent thereunto lawfully authorized, such tenant or other person so holding over shall, for and during the time he so holds over or keeps the person entitled out of possession, pay to such person or his assigns at the rate of double the yearly value of the land so detained for so long as it is detained, to

Penalty of double value for over-holding

be recovered by action in any court of competent jurisdiction, against the recovering of which penalty there is no relief. R.S.O. 1950, c. 199, s. 57.

Penalty of double rent for over-holding

58. Where a tenant gives notice of his intention to quit the premises by him held at a time mentioned in the notice and does not accordingly deliver up the possession thereof at the time mentioned in the notice, the tenant shall from thenceforward pay to the landlord double the rent or sum that he should otherwise have paid, to be levied, sued for and recovered at the same times and in the same manner as the single rent or sum before the giving such notice could be levied, sued for or recovered, and such double rent or sum shall continue to be paid while such tenant continues in possession. R.S.O. 1950, c. 199, s. 58.

Right of personal representatives to distrain for arrears

59. The executors or administrators of a landlord may distrain for the arrears of rent due to such landlord in his lifetime, and may sue for the same in like manner as such landlord might have done if living, and the powers and provisions contained in this Act relating to distresses for rent are applicable to the distresses so made. R.S.O. 1950, c. 199, s. 59.

Nullity of attornment to stranger

60. Every attornment of a tenant of any land to a stranger claiming title to the estate of his landlord is void, and the possession of his landlord shall not be deemed to be changed, altered or affected by any such attornment; but nothing herein vacates or affects any attornment made pursuant to and in consequence of a judgment or order of a court, or made with the privity and consent of the landlord, or to any mortgagee after the mortgage has become forfeited. R.S.O. 1950, c. 199, s. 60.

Attornment of tenant, in what cases not necessary

61.—(1) Every grant or conveyance of any rent or of the reversion or remainder of any land is good and effectual without any attornment of the tenant of the land out of which such rent issues, or of the particular tenant upon whose particular estate any such reversion or remainder is expectant or depending.

Tenant not to be prejudiced

(2) A tenant shall not be prejudiced or damaged by the payment of rent to any grantor or by breach of any condition for non-payment of rent before notice to him of such grant by the grantee. R.S.O. 1950, c. 199, s. 61.

Chief leases may be removed without surrendering all the under-leases

62.—(1) Where a lease is duly surrendered in order to be renewed and a new lease is made and executed by the chief landlord, the new lease is, without a surrender of all or any of the under-leases, as good and valid as if all the under-leases derived thereout had been likewise surrendered at or before the time of taking of such new lease.

(2) Every person in whom any estate for life, or lives, or for years, is from time to time vested by virtue of such new lease is entitled to the rents, covenants and duties, and has like remedy for recovery thereof, and the under-lessees shall hold and enjoy the land in the respective under-leases comprised as if the original lease had been kept on foot and continued, and the chief landlord has and is entitled to such and the same remedy by distress or entry in and upon the land comprised in any such under-lease for the rents and duties reserved by such new lease, so far as they do not exceed the rents and duties reserved in the lease out of which such under-lease was derived, as he would have had if such former lease had been still continued or as he would have had if the respective under-leases had been renewed under such new principal lease. R.S.O. 1950, c. 199, s. 62.

Rights and remedies of parties thereunder

63.—(1) Where a person who, in pursuance of any covenant or agreement in writing, if in Ontario and amenable to the process of the Supreme Court, might be compelled to execute any lease by way of renewal, is not in Ontario or is not amenable to the process of the court, the court, upon the motion of any person entitled to such renewal, whether such person is or is not under any disability, may direct such person as the court thinks proper to appoint for that purpose to accept a surrender of the subsisting lease and to make and execute a new lease in the name of the person who ought to have renewed it.

Who may renew on behalf of persons out of Ontario

(2) A new lease executed by the person so appointed is as valid as if the person in whose name it was made was alive and not under any disability and had himself executed it.

Validity of such new lease

(3) In every such case it is in the discretion of the court to direct an action to be brought to establish the right of the person seeking the renewal, and not to make the order for such new lease unless by the judgment to be made in such action, or until after it has been entered.

Discretion of court to direct action to be brought

(4) A renewed lease shall not be executed by virtue of this section in pursuance of any covenant or agreement unless the sum or sums of money, if any, that ought to be paid on such renewal and the things, if any, that ought to be performed in pursuance of such covenant or agreement by the tenant be first paid and performed, and counterparts of every such renewed lease shall be duly executed by the tenant.

Conditions

(5) All sums of money that are had, received or paid for, or on account of, the renewal of any lease by any person out of Ontario or not amenable to the process of the Supreme Court, after a deduction of all necessary incidental charges and expenses, shall be paid to such person or in such manner

Premiums, how to be paid

or into the Supreme Court to such account, and be applied and disposed of, as the court directs.

Costs

(6) The court may order the costs and expenses of and relating to the applications, orders, directions, conveyances and transfers, or any of them, to be paid and raised out of or from the land, or the rents in respect of which they are respectively made, in such manner as the court deems proper. R.S.O. 1950, c. 199, s. 63.

PART II

**Interpre-
tation**

64. In this Part, "judge" means the judge of the county or district court of the county or district in which a distress to which this Part applies is made. R.S.O. 1950, c. 199, s. 64.

**Disputes as
to right to
distrain**

65.—(1) Where goods or chattels are distrained by a landlord for arrears of rent and the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods or chattels, or disputes the amount claimed by the landlord, or the tenant claims to set off against the rent a debt that the landlord disputes, the landlord or the tenant may apply to the judge to determine the matters so in dispute, and the judge may hear and determine them in a summary way, and may make such order in the premises as he deems just.

**Application
to judge by
landlord or
tenant**

(2) Where the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods or chattels, or disputes the amount claimed by the landlord, the landlord or the tenant may, before any distress has been made, apply to the judge to determine the matter so in dispute, and the judge may hear and determine it in a summary way, and may make such order in the premises as he deems just. R.S.O. 1950, c. 199, s. 65.

**Order of
judge
pending de-
termination
of dispute**

66. Where notice of such an application has been given to the landlord or tenant, as the case may be, the judge, pending the disposition of it by him, may make such order as he deems just for the restoration to the tenant of the whole or any part of the goods or chattels distrained, or preventing a distress being made, upon the tenant giving security, by payment into court or otherwise as the judge directs, for the payment of the rent that is found due to the landlord and for the costs of the distress and of the proceedings before the judge and of any appeal from his order, or such of them as the tenant may be ordered to pay. R.S.O. 1950, c. 199, s. 66.

**Jurisdiction
of judge**

67. The judge has jurisdiction and authority to determine any question arising upon the application that the court of

which he is judge has jurisdiction to determine in an action brought in that court. R.S.O. 1950, c. 199, s. 67.

68. Where the amount of the rent claimed by the landlord exceeds \$800 or where any question is raised that a county or district court would not have jurisdiction to try in an action brought in such court, the judge shall not, without the consent in writing of the landlord and the tenant, deal with the application summarily, but shall direct an action to be brought or an issue to be tried in the Supreme Court for the determination of the matters in dispute. R.S.O. 1950, c. 199, s. 68.

Where judge to direct that action be brought or issue tried

69.—(1) Where the judge directs an action to be brought or an issue to be tried under section 68, he has the like power as to the restoration to the tenant of the goods or chattels or of any part of them and to the prevention of a distress being made as is conferred by section 66, and, where it is exercised, the security shall be as provided in that section except that, as to costs, it shall be not only for the costs of the proceedings before the judge but also for the costs of the action or issue, including any appeal therein or such of them as the tenant may be ordered to pay.

Interim order for restoration of goods on security being given, etc.

(2) The Supreme Court shall determine by whom and in what manner the costs of the action or issue and of the application to the judge are to be borne and paid.

Costs

(3) Judgment may be entered in accordance with the direction of the court, made at or after the trial, and may be enforced in like manner as a judgment of the court. R.S.O. 1950, c. 199, s. 69.

Entry of judgment

70. Where the amount claimed by the landlord does not exceed \$100, the decision of the judge is final. R.S.O. 1950, c. 199, s. 70.

When decision of judge final

71. Where the amount claimed by the landlord exceeds \$100, an appeal lies from any order of the judge made on an application to him under section 65 by which the matters in dispute are determined, in like manner as if it were a judgment of the court of which he is judge pronounced in an action. R.S.O. 1950, c. 199, s. 71.

Appeal from summary determination

72. Where an issue is tried, there is the same right to appeal from the judgment as if the judgment had been pronounced in an action. R.S.O. 1950, c. 199, s. 72.

Appeal where action brought or issue tried

73. Where the amount claimed by the landlord does not exceed \$100, the costs of the proceedings before the judge shall be on the division court scale, and where the amount claimed exceeds \$100, they shall be on the county court scale,

Scale of costs

except in an action or issue in the Supreme Court directed under section 68. R.S.O. 1950, c. 199, s. 73.

Other
remedies
of tenant

74. Nothing in this Part takes away or affects any remedy that a tenant may have against his landlord or require a tenant to proceed under this Part instead of by bringing an action, but where, instead of proceeding under this Part, he proceeds by action, the court in which the action is brought, if of opinion that it was unnecessarily brought and that a complete remedy might have been had by a proceeding under this Part, may direct the tenant, although he succeeds, to pay any additional costs occasioned by his having brought the action. R.S.O. 1950, c. 199, s. 74.

PART III

Application
to county
court judge
against
overholding
tenant

75.—(1) Where a tenant after his lease or right of occupation, whether created by writing or by parol, has expired or been determined, either by the landlord or by the tenant, by a notice to quit or notice pursuant to a proviso in a lease or agreement in that behalf, or has been determined by any other act whereby a tenancy or right of occupancy may be determined or put an end to, wrongfully refuses or neglects to go out of possession of the land demised to him, or which he has been permitted to occupy, his landlord may apply upon affidavit to the judge of the county or district court of the county or district in which the land lies to make the inquiry hereinafter provided for.

Inquiry
and deter-
mination

(2) The judge shall in writing appoint a time and place at which he will inquire and determine whether the person complained of was tenant to the complainant for a term or period that has expired or has been determined by a notice to quit or for default in payment of rent or otherwise, and whether the tenant holds the possession against the right of the landlord, and whether the tenant, having no right to continue in possession, wrongfully refuses to go out of possession.

Notice

(3) Notice in writing of the time and place appointed, stating briefly the principal facts alleged by the complainant as entitling him to possession, shall be served upon the tenant or left at his place of abode at least three days before the day so appointed, if the place appointed is not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the judge's appointment and of the affidavit on which it was obtained, and of the documents to be used upon the application. R.S.O. 1950, c. 199, s. 75.

76. The proceedings under this Part shall be entitled in the county or district court of the county or district in which the land lies, and shall be styled: Proceedings, how entitled

In the matter of (*giving the name of the party complaining*),
Landlord, against (*giving the name of the party complained against*)
Tenant.

R.S.O. 1950, c. 199, s. 76.

77.—(1) If, at the time and place appointed, the tenant fails to appear, the judge, if it appears to him that the tenant wrongfully holds against the right of the landlord, may order a writ of possession (Form 3) directed to the sheriff of the county or district in which the land lies to be issued commanding him forthwith to place the landlord in possession of the land. Proceedings in default of appearance

(2) If the tenant appears, the judge shall, in a summary manner, hear the parties and their witnesses, and examine into the matter, and, if it appears to the judge that the tenant wrongfully holds against the right of the landlord, he may order the issue of the writ. In case of appearance R.S.O. 1950, c. 199, s. 77.

78. The judge has the same power to amend or excuse irregularities in the proceedings as he would have in an action. Power of amendment R.S.O. 1950, c. 199, s. 78.

79.—(1) An appeal lies to the Court of Appeal from the order of the judge granting or refusing a writ of possession, and the provisions of *The County Courts Act* as to appeals apply to such an appeal. Appeal R.S.O. 1960, c. 76

(2) If the Court of Appeal is of opinion that the right to possession should not be determined in a proceeding under this Part, the court may discharge the order of the judge, and the landlord may in that case proceed by action for the recovery of possession. Discharging order for possession on appeal

(3) When the order is discharged, if possession has been given to the landlord under a writ of possession, the court may direct that possession be restored to the tenant. Restoring tenant to possession R.S.O. 1950, c. 199, s. 79.

FORM 1

(Section 33 (1))

NOTICE TO TENANT

Take notice that I claim \$. for rent due to me in respect of the premises that you hold as my tenant, namely (*here briefly describe them*); and unless the said rent is paid, I demand from you immediate possession of the said premises; and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me possession of the said premises within three days after the service of this notice, I am by *The Landlord and Tenant Act* entitled to seize and sell, and I intend to seize and sell, all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

Dated this. day of , 19. . . .

(*Landlord*).

To. (*tenant*).

R.S.O. 1950, c. 199, Form 1.

FORM 2

(Section 34 (2))

NOTICE TO LANDLORD

Take notice that under *The Landlord and Tenant Act* I wish to set off against rent due by me to you the debt that you owe to me on your promissory note for. dated.
(*or as the case may be*).

Dated this. day of , 19. . . .

(*Tenant*).

R.S.O. 1950, c. 199, Form 2.

FORM 3
(Section 77 (1))

WRIT OF POSSESSION

ONTARIO,

To Wit,

Elizabeth the Second, by the Grace of God, of the United Kingdom,
Canada and Her other Realms and Territories Queen, Head of the Common-
wealth, Defender of the Faith.

[L.S.]

To the Sheriff of the..... Greeting:

Whereas..... Judge of the..... Court
of....., by his order dated the.....
day of....., 19....., made under *The
Landlord and Tenant Act*, on the complaint of.....
..... against....., adjudged
that..... was entitled to the possession
of.....
with the appurtenances in your bailiwick, and that a Writ should issue
out of Our said Court accordingly (*if costs are awarded add* and also ordered
and directed that the said..... should pay the
costs of the proceedings had under the said Act, which have been taxed
at the sum of.....).

THEREFORE, WE COMMAND YOU that without delay you cause the said
..... to have possession of the said land
and premises, with the appurtenances (*if costs are awarded add* and We
also command you that of the goods and chattels and lands and tenements
of the said..... in your bailiwick,
you cause to be made..... being the said
costs so taxed and have that money in Our said Court immediately after
the execution hereof, to be rendered to the said.....).

And in what manner you have
executed this Writ make appear to Our said Court immediately after the
execution hereof, and have there then this Writ.

Witness,, Judge of Our Said
Court at, this..... day
of....., 19.....

Clerk.

Issued from the office of the Clerk of the County (or District) Court of
.....

Clerk.

CHAPTER 207

The Law Society Act

1. In this Act, "Society" means The Law Society of Upper ^{Interpre-}Canada. R.S.O. 1950, c. 200, s. 1.

2. The treasurer and benchers of the Society and their ^{Name} successors are a body corporate and politic by the name of "The Law Society of Upper Canada", and may purchase, acquire, take by gift, bequest, donation or otherwise, for the purposes of the Society, but for no other purpose, and may sell, mortgage, lease or dispose of any real or personal property. R.S.O. 1950, c. 200, s. 2.

3. The judges of the Supreme Court are visitors of the ^{Visitors}Society. R.S.O. 1950, c. 200, s. 3.

4. The members of the bar of Ontario and the persons ad- ^{Members}mitted to the Society as students-at-law are members of the Society. R.S.O. 1950, c. 200, s. 4.

5. The following, if and while they are members of the ^{Ex officio}bar of Ontario, are *ex officio* benchers of the Society:

1. The Minister of Justice and the Solicitor General of Canada.
2. The Attorney General for Ontario, and every person who has held that office.
3. Every person who has for seven consecutive years held the office of treasurer of the Society.
4. Every person who has been elected a bencher at four quinquennial elections.
5. Every retired judge of the Supreme Court of Canada or of the Exchequer Court of Canada who was at the time of his appointment a member of the bar of Ontario.
6. Every retired judge of the Supreme Court of Ontario. R.S.O. 1950, c. 200, s. 5.

6. The benchers, exclusive of the *ex officio* members, shall ^{Elective}be thirty in number and shall be elected from the members ^{benchers}of the bar as hereinafter provided. R.S.O. 1950, c. 200, s. 6.

Appoint-
ment of
scrutineers

7.—(1) The benchers shall, during the month of February next preceding an election, appoint, with their assent, two members of the bar who are not candidates for election as benchers to act with the treasurer as scrutineers at the election, and a third person, who is a member of the bar and not a candidate, to assist the treasurer and act for him in his absence in counting the votes. R.S.O. 1950, c. 200, s. 7 (1), *amended*.

Temporary
vacancies

(2) The treasurer may fill any vacancy in the office of scrutineer and, if he sees fit, may appoint temporarily any qualified person to act as substitute for any scrutineer or other person appointed during the absence of such person. R.S.O. 1950, c. 200, s. 7 (2).

Election,
when to
be held

8.—(1) An election shall be held on the first Thursday after the second Wednesday in April of every fifth year after 1941, but, if the scrutineers are unable to complete the scrutiny upon such day, it shall be continued from day to day until the election is declared.

Absence of
scrutineer

(2) If any scrutineer is absent during the scrutiny, the others may proceed therewith. R.S.O. 1950, c. 200, s. 8.

Who may
vote and for
whom

9. Every person who is a member of the bar in good standing and not in arrear for fees to the Society is an elector qualified to vote for thirty persons for benchers. R.S.O. 1950, c. 200, s. 9.

List of
voters

10.—(1) The secretary of the Society shall, in the month of January, previous to the time for holding an election, make out and sign an alphabetical list of the members of the bar who are entitled to vote at the election.

Complaints
or errors in
the list

(2) The list may be examined by any member of the bar at all reasonable times at the office of the secretary, and if, within fifteen days after the last day of January, a member of the bar complains to the secretary, in writing, of the improper omission or insertion of any name in the list, the secretary shall forthwith examine into the complaint and rectify any error.

Appeal to
scrutineers

(3) If any person is dissatisfied with the decision of the secretary, he may appeal to the scrutineers, whose decision is final, and the list shall remain or be altered in accordance with their decision, and the list as it stands on the 5th day of March shall be signed by the secretary and scrutineers and is the settled list of persons entitled to vote at the election.

Adding per-
sons called
to the Bar
in term
preceding

(4) The secretary shall add to the list the names of all persons called to the bar after the last day of January and before the day fixed for the receipt of nomination papers, and

no alteration shall be made in the list except as provided in this section. R.S.O. 1950, c. 200, s. 10.

11. No person is eligible as a benchers at any election who is not qualified to vote at the election. R.S.O. 1950, c. 200, s. 11. Qualifications of benchers

12. Retiring benchers are eligible for re-election at all elections. R.S.O. 1950, c. 200, s. 12. Retiring benchers eligible

13.—(1) No person shall be elected a benchers unless he has been nominated as hereinafter mentioned, and every vote cast for any person not so nominated is void. Nomination required

(2) The nomination shall be in writing by a nomination paper, which shall be signed by at least ten of the persons entitled to vote at the election. Nomination paper

(3) The nomination paper shall be delivered at the office of the secretary or sent by mail to him, so as to be received during the first fifteen days of the month of March of the year in which the election is to take place, and, if not so delivered or received, is invalid and shall not be acted upon. Delivery

(4) The secretary shall, within the first four days after the last day for the receipt of nomination papers, mail a notice in writing to each nominee informing him of his nomination, but the failure to mail a notice or the non-receipt thereof by the nominee does not invalidate the election. Notice to nominee

(5) Any person who is nominated may refuse to become a candidate, and he shall be deemed not to have been so nominated and his name shall not be included in the list of candidates if he notifies the secretary in writing of his refusal within four days after the mailing of a notice to him. Declining nomination

(6) If the number of persons who remain as candidates is not greater than the number of benchers to be elected, they shall be elected benchers. R.S.O. 1950, c. 200, s. 13. Election by acclamation

14. In case a poll is necessary, the secretary shall forthwith, after the time for receiving notice of refusal to be a candidate has expired, send to each member of the bar whose name is on the list of persons entitled to vote, if his residence is known to the secretary, one copy of the form of voting paper with a list of the candidates that shall indicate by asterisks and a footnote those whose term of office as benchers is about to expire. R.S.O. 1950, c. 200, s. 14. Proceedings in case of poll

15. The votes shall be given by closed voting papers (Form 1) delivered at the office of the secretary or sent by mail to When voting papers to be delivered

him so as to be received thereat not later than the second Wednesday of April of the year of the election. R.S.O. 1950, c. 200, s. 15.

Counting
the votes

16. Beginning on the first Thursday after the second Wednesday of April and proceeding continuously thereafter, except on holidays, the voting papers shall be opened by the secretary in the presence of the treasurer, or the person appointed to assist him, and of the scrutineers who shall scrutinize and count the votes and keep a record thereof in a book to be provided by the Society. R.S.O. 1950, c. 200, s. 16.

Void vote

17. A vote cast for any person who is not upon the list of candidates or who is ineligible to be a benchner or who is a benchner *ex officio* is void, and the election shall be declared as if such vote had not been cast. R.S.O. 1950, c. 200, s. 17.

Voting for
more than
30 members

18. In the event of a voter placing more than thirty names on his voting paper, the first thirty only shall be counted notwithstanding that any of the thirty persons so named is ineligible for election or is not a candidate or is an *ex officio* benchner. R.S.O. 1950, c. 200, s. 18.

Equality
of votes

19. If an equality of votes between two or more persons leaves the election of one or more benchners undecided, the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates having such equality of votes written thereon, one for each candidate, and the secretary shall draw by chance from the ballot box, in the presence of the scrutineers, one or more of such papers sufficient to make up the required number, and the persons whose names are upon the papers so drawn shall be declared to have been elected as benchners. R.S.O. 1950, c. 200, s. 19.

Who to be
declared
elected

20.—(1) The thirty persons who have the highest number of votes shall be declared by the secretary to have been elected as benchners for the ensuing term of five years.

Where
ex officio
benchner is
elected

(2) If among the thirty persons who have the highest number of votes there is a benchner who by virtue of such election becomes *ex officio* a benchner, the scrutineers shall so report and, subject to section 17, the thirty other persons having the highest number of votes shall be declared to have been elected as benchners for the ensuing term of five years. R.S.O. 1950, c. 200, s. 20.

Who may
be present at
the counting
of votes

21. Any person entitled to vote at any such election is entitled to be present at the counting of the votes. R.S.O. 1950, c. 200, s. 21.

22. If from any cause an election provided for by this Act is not held as hereinbefore provided, the benchers in convocation shall make provision for holding it and fix the dates for the nomination and the other proceedings for taking, counting and recording the votes thereat and declaring the result thereof, and such proceedings shall, so far as practicable, conform to this Act. R.S.O. 1950, c. 200, s. 22.

When election not held at proper time

23. Upon the completion of the scrutiny and counting of the votes, the secretary shall forthwith declare the result of the election as certified by the scrutineers and report it to the Society, and shall cause the names of the persons elected to be published in the next issue of *The Ontario Gazette*, R.S.O. 1950, c. 200, s. 23.

Declaration of result

24. The benchers may make such regulations as they consider expedient, not contrary to this Act, for regulating the procedure under the preceding sections, and for the remuneration of the scrutineers. R.S.O. 1950, c. 200, s. 24.

Regulations for elections and remuneration to scrutineers

25. Until all petitions in respect of the election have been decided, the voting papers relating to the election shall not be destroyed, but, together with all other papers in connection with the election, shall be retained by the secretary. R.S.O. 1950, c. 200, s. 25.

Preservation of voting papers

26. No person shall sign the name of any other person to a voting paper, or alter, or add to, or falsify, or fill up any blank in a voting paper signed by another person, or deliver or cause to be delivered, or send or cause to be sent, by mail or otherwise, to the secretary, a false voting paper or a voting paper that has been added to, or falsified, or in which a blank has been filled up after it was signed. R.S.O. 1950, c. 200, s. 26.

False voting

27. If the office of secretary is vacant or if the secretary is unable from any cause to act at or in connection with an election, the treasurer shall appoint under his hand some other person to act as secretary *pro tempore*, and the person so appointed shall perform all the duties of the secretary as prescribed by this Act. R.S.O. 1950, c. 200, s. 27.

Absence of secretary

28. The elected benchers shall take office at the first meeting following their election and, subject to this Act, shall hold office until their successors are elected. R.S.O. 1950, c. 200, s. 28.

Term of office of benchers

29.—(1) The seat of a bencher, other than an *ex officio* bencher, who has failed to attend the meetings of the benchers

Vacation of seat for non-attendance

for nine consecutive meetings *ipso facto* becomes vacant at the expiration of that period.

Suspension
of certain
ex officio
benchers for
non-pay-
ment of fees

(2) The right of a bencher who is *ex officio* by reason of having been elected at four quinquennial elections to sit and vote at meetings of the benchers is suspended if and while he is in default in payment of any fees to the Society. R.S.O. 1950, c. 200, s. 29.

Committee
on election
petitions

30. The benchers may appoint a committee to inquire with respect to the due election of any bencher whose election may be petitioned against by any member of the bar who voted at the election, and, after such inquiry, to report such bencher as duly or not duly elected or qualified according to the fact, and, if necessary, to report the name of the candidate having the highest number of votes next after the candidate declared elected who had the lowest number of votes, in lieu of the person reported not duly elected or qualified, and, on the confirmation of the report by the benchers, other than persons petitioned against, present at any meeting called for that purpose, the person so reported in lieu of the person petitioned against shall be deemed to be the duly elected and qualified bencher. R.S.O. 1950, c. 200, s. 30.

Time for
filing elec-
tion petition

31.—(1) A petition shall not be entertained unless it is filed with the secretary before the 10th day of May next succeeding the election, and contains a statement of the grounds on which the election is disputed, nor unless a copy thereof is served upon the bencher whose election is disputed before the 15th day of May, and no ground not mentioned in the petition shall be entertained on the hearing thereof.

Hearing
petitions

(2) The benchers, or the committee appointed for that purpose, shall before the last day of such month, appoint a day for the hearing of the petition and give notice of such day to the petitioner and to the person whose election is disputed, and all such petitions shall be finally disposed of within one month from the date of filing. R.S.O. 1950, c. 200, s. 31.

Deposit for
costs

32. The petitioner shall deposit with the secretary \$100 to meet any costs that the bencher petitioned against may, in the opinion of the committee before which the petition is heard, be put to, and the committee may, in the event of the petition being dismissed, award such a sum to be paid to the bencher petitioned against as in their opinion is just and they may in their discretion, in the event of it being decided that the bencher was not duly elected or qualified, award costs to the petitioner, and the costs so awarded are recoverable in any court of competent jurisdiction. R.S.O. 1950, c. 200, s. 32.

33.—(1) The benchers shall, at their first meeting after the election, elect one of their number as treasurer, who shall be the president of the Society, and shall hold office until the appointment of his successor, and the election of treasurer shall take place in each year thereafter at such time as is appointed by the rules of the Society. Election of treasurer

(2) The retiring treasurer is eligible for re-election. R.S.O. 1950, c. 200, s. 33. Retiring treasurer eligible

34. In case of failure to elect the requisite number of duly qualified benchers or in case of any vacancy owing to the death or resignation of any bencher, or to any other cause, the remaining benchers shall, at the next regular meeting or at a meeting specially called for the purpose, supply the deficiency in the number of benchers, or fill the vacancy by electing any person or persons duly qualified, and the person or persons so elected shall hold office until the next quinquennial election. R.S.O. 1950, c. 200, s. 34. Vacancies among benchers how filled

35. The benchers may make rules for the government of the Society and other purposes connected therewith. R.S.O. 1950, c. 200, s. 35. Power to make rules

36. The benchers may by rule fix or change the dates for the doing of any act or the giving of any notice which by this Act is to be done or given in or with reference to any term, but no such rule shall have the effect of prolonging the term of office of any elected bencher. R.S.O. 1950, c. 200, s. 36. Changing dates for doing acts or giving notices

37. On the hearing of an election petition or upon any inquiry by a committee, the benchers or committee has power to examine witnesses under oath, and a summons under the hand of the treasurer or under the hands of three benchers for the attendance of a witness has all the force of a subpoena, and any witness not attending in obedience thereto is liable to attachment in the Supreme Court. R.S.O. 1950, c. 200, s. 37. Power to summon and examine witnesses

38. The benchers may appoint such officers and servants as they deem necessary for the purposes of the Society. R.S.O. 1950, c. 200, s. 38. Appointment of officers

39. The benchers may appoint examiners to conduct the examination of students-at-law and of persons applying to be called to the bar or to be admitted as solicitors. R.S.O. 1950, c. 200, s. 39. Appointment of examiners

40. The benchers may make rules for the improvement of legal education, including the establishment and maintenance of a law school, appoint a dean and lecturers with Legal education

salaries, impose fees and prescribe rules for the attendance of students and others at lectures and for examinations thereon, but not so as to reduce the number of years prescribed by statute for call to the bar or admission as solicitor, and may establish scholarships and prizes, and may provide for the granting of and grant degrees in law. R.S.O. 1950, c. 200, s. 40; 1957, c. 59, s. 1.

Call to
the bar

41.—(1) The benchers may make rules for conducting the examination of persons applying to be called to the bar and may call and admit to the practice of the law as a barrister any person duly qualified to be so called and admitted according to the law and the rules of the Society.

Admission
of women

(2) The benchers may make rules providing for the admission of women to practise as barristers and solicitors. R.S.O. 1950, c. 200, s. 41.

Rules for
examination
of candi-
dates for ad-
mission as
solicitors

42.—(1) The benchers may make rules for conducting the examination of persons applying to be admitted as solicitors touching the articles and service, and the certificates required to be produced by them before their admission, and as to the fitness and capacity of such persons to act as solicitors.

Suspending
decision

(2) Where it appears to the benchers expedient for purposes of further inquiry or investigation, they may suspend, for a period not exceeding twelve months, their final decision in respect to granting or refusing a certificate. R.S.O. 1950, c. 200, s. 42.

Rules and
regulations
to meet
special cir-
cumstances

43. The benchers may make rules and regulations, not contrary to law, and dispense therewith from time to time to meet the special circumstances of any special case respecting,

- (a) the admission of students-at-law, the periods and conditions of study, the call or admission of barristers to practise the law, and all other matters relating to the discipline and honour of the bar;
- (b) the service of students-at-law, the period and conditions of such service, the admission of solicitors to practise in the courts, and all other matters relating to the discipline and conduct of solicitors and students;
- (c) the opening and keeping by barristers and solicitors of accounts for clients' money at banks, Province of Ontario Savings Offices or other institutions authorized to receive deposits;
- (d) the keeping by barristers and solicitors of accounts and records containing proper particulars and information as to moneys received, held, or paid by them for or on account of clients;

- (e) inquiries or investigations by the benchers or a committee of their number or any other persons for the purpose of ascertaining whether the rules and regulations of the Society are being complied with;
- (f) the effect of non-observance of any rule or regulation passed under clause *c*, *d* or *e* and in what cases such non-observance by any barrister or solicitor shall amount to professional misconduct;
- (g) the payment to the Society by any barrister or solicitor of the cost of any inspection or audit of his books and accounts in the event that the rules and regulations of the Society in relation thereto, or in relation to the opening and keeping of accounts for clients' moneys at banks, Province of Ontario Savings Offices or other institutions authorized to receive deposits, have not been complied with. R.S.O. 1950, c. 200, s. 43.

44.—(1) Where a barrister, solicitor or student-at-law is found by the benchers, after due inquiry by a committee of their number or otherwise, guilty of professional misconduct, or of conduct unbecoming a barrister, solicitor or student-at-law, the benchers may ^{Powers of benchers to suspend, disbar or expel in case of misconduct} disbar any such barrister, or suspend him from practising as a barrister for such time as they deem proper, may resolve that any such solicitor is unworthy to practise as a solicitor or that he should be suspended from practising for a period to be named in the resolution, may expel from the Society and the membership thereof such student and strike his name from the books of the Society, or may refuse either absolutely or for a limited period to admit such student to the usual examinations or to grant him the certificate of fitness necessary to enable him to be admitted to practice.

(2) In addition to or as an alternative for any other penalty, ^{Expenses of investigations} a barrister or solicitor who is found guilty of professional misconduct or conduct unbecoming a barrister or solicitor under this section may be ordered by the benchers to pay the expense, or part of the expense, incurred by the Society in the investigation of any charge or charges in respect of which he has been found guilty and any sum or sums so ordered to be paid may be recovered by the Society by order of the Supreme Court, to be made on summary application. R.S.O. 1950, c. 200, s. 44.

45.—(1) Where a barrister or solicitor has been declared ^{Power of benchers to suspend} certified or found to be mentally incompetent or mentally ill pursuant to the relevant statutes in that behalf, or has failed to pay any fee payable by him to the Society within one year

of the date prescribed for the payment thereof, the benchers may, in the case of a barrister, suspend him from practising as a barrister for such time as they deem proper and may, in the case of a solicitor, resolve that he should be suspended from practising for a period to be named in the resolution.

Applica-
tion for
reinstatement

(2) Where a barrister or solicitor has been suspended from practising under this section, he may, upon payment of all fees and penalties owing by him to the Society, apply to be reinstated as a barrister or solicitor, or both, as the case may be.

Termination
of suspension

(3) Upon every application made under subsection 2, the benchers may terminate the suspension of such barrister or resolve that the suspension of such solicitor should be terminated on such terms and conditions as they deem proper.

Resolution
to be communicated
to registrar

(4) A copy of every resolution passed under this section shall be communicated to the Registrar of the Supreme Court, and upon compliance with the terms or conditions of any resolution passed under subsection 3 by the barrister or solicitor named therein, the secretary and the Registrar of the Supreme Court shall do such acts as are necessary to terminate such suspension. R.S.O. 1950, c. 200, s. 45.

Barrister's
privileges
to cease
when he is
disbarred

46. Upon a barrister being disbarred, all his rights and privileges as a barrister thenceforth cease and determine, or, in case he is suspended, he shall, during the period of his suspension, possess no rights or privileges as a barrister, and notice of his being disbarred or suspended shall forthwith be given by the secretary to the Registrar of the Supreme Court. R.S.O. 1950, c. 200, s. 46.

Resolution
of benchers

47. Where it has been resolved by the benchers that a solicitor is unworthy to practise, a copy of the resolution shall forthwith be communicated to the Registrar of the Supreme Court. R.S.O. 1950, c. 200, s. 47.

Suspending
or striking
off rolls

48. Upon receipt of a notice under section 46 or 47, an order shall be drawn up by the Registrar of the Supreme Court without any formal motion striking such barrister or solicitor off the roll or suspending him, as the case may be, but any such order may be set aside or varied at any time by the court. R.S.O. 1950, c. 200, s. 48.

Powers of
visitors as
to discipline
vested in
benchers

49. Any powers that the visitors of the Society may have in matters of discipline are hereby vested in the benchers, and the powers conferred upon the benchers by sections 44 to 48 may be exercised by them without reference to or the concurrence of the visitors. R.S.O. 1950, c. 200, s. 49.

50. The benchers may make regulations for promoting the efficiency of county law libraries, and may prescribe and enforce remedies for the violation thereof, and may by resolution of convocation cause to be dissolved any county law library association that neglects or refuses to comply with the regulations. R.S.O. 1950, c. 200, s. 50. Rules as to county law libraries

51. The benchers may establish a fund for the benefit of barristers or solicitors, their widows, orphans or dependants, to be called "The Law Benevolent Fund", and may make all necessary rules and regulations for the management and investment of the fund, and the terms of subscription and appropriation thereof, and the conditions under which the barristers or solicitors, their widows, orphans or dependants are entitled to share in such fund. R.S.O. 1950, c. 200, s. 51. Law Benevolent Fund

52.—(1) The benchers may establish a plan to provide legal aid to persons in need thereof, to be called "The Ontario Legal Aid Plan" and for such purpose may make such regulations as are deemed appropriate. Legal Aid Plan

(2) In order to assist in the operation of the Plan, the benchers may create a fund, to be called "The Legal Aid Fund", which shall be made up of such moneys as the regulations provide for, including moneys recovered as costs and such moneys as the Society provides from its general funds. Legal Aid Fund

(3) A person who is assisted under the Plan has the right to recover and collect lawful costs in actions and proceedings in the same manner as if he had been able to pay the costs of his solicitor and counsel, and, where he has not paid anything for such assistance, any moneys so received and collected as costs vest in the Society and shall be paid into the Fund. Costs

(4) Where moneys have been paid out of the Fund to a solicitor for the purpose of enabling him to make necessary disbursements in connection with services performed by him under the Plan and have been expended by him in the payment of Crown fees or charges and such moneys are not recoverable in any other manner, the Treasurer of Ontario may, on the certificate of the treasurer and secretary of the Society, remit such fees and charges to the Society. 1951, c. 45, s. 1. Remission of Crown fees

53.—(1) The benchers may establish, maintain and administer a fund to be called "The Compensation Fund" from which grants may be made in cases that the benchers consider suitable for such treatment and in their absolute discretion decide so to treat in order to relieve or mitigate loss sustained by any person in consequence of dishonesty on the part of any member of the bar of Ontario in connection with such member's law practice or in connection with any trust of which he Compensation Fund

was a trustee, notwithstanding that after the commission of the act of dishonesty he may have died or ceased to administer his affairs or to be a member of the bar of Ontario.

Composition
of Fund

(2) The Compensation Fund shall be held by the benchers in trust for the purposes of this section and it shall be made up of,

- (a) all moneys paid by members of the bar of Ontario under subsection 3;
- (b) all moneys earned from the investment of moneys in the Fund; and
- (c) all moneys recovered from members or former members of the bar of Ontario or their estates under subsection 6.

Annual
levy

(3) Every member of the bar of Ontario engaged in practice or employed in Ontario shall pay annually \$10, or such other amount as the benchers may from time to time determine, to the Society to be paid into The Compensation Fund, but the benchers may exempt in whole or in part any class of such members that it designates from the requirement of this subsection.

Insurance

(4) The Society may insure with any insurer licensed to carry on business in Ontario for such purposes and on such terms as the benchers deem expedient in relation to The Compensation Fund, and, in such event, the moneys in the Fund may be used for the payment of premiums.

Conditions
of grants

(5) No grant shall be made out of The Compensation Fund,

- (a) in respect of a loss that came to the knowledge of the person suffering the loss before the Fund came into operation; and
- (b) unless notice of the loss is received by the Secretary of the Society within six months after the loss came to the knowledge of the person suffering the loss or within such further time, not exceeding eighteen months, as the benchers in any case allow.

Subrogation

(6) Where a grant is made under this section, the Society shall be subrogated, to the amount of the grant, to any rights or remedies to which the person receiving the grant was entitled on account of the loss in respect of which the grant was made against the dishonest member or any other person, or, in the event of the death or insolvency or other disability of such member or other person, against his personal representative or other person administering his estate.

(7) The person to whom a grant is made under this section, or, in the event of his death or insolvency or other disability, his personal representative or other person administering his estate, has no right to receive anything from the dishonest member or his estate in respect of the loss in respect of which the grant was made until the Society has been reimbursed the full amount of the grant. Grantees' rights conditionally limited

(8) In considering applications for grants under this section, the benchers have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. Attendance of witnesses

(9) The benchers may make such regulations not inconsistent with this section as they consider appropriate in connection with the administration of The Compensation Fund. Regulations

(10) The benchers may delegate any or all of the powers conferred upon them under this section to their discipline committee or to any other of their committees that they consider appropriate. Delegation of powers

(11) For the purposes of this section, the expression "member of the bar of Ontario" includes a solicitor within the meaning of *The Solicitors Act*. 1953, c. 55, s. 1. Interpretation
R.S.O. 1960, c. 378

54.—(1) The benchers may appoint such person or persons, being members of the Society of the degree of barrister, as they think proper to report and edit the decisions of the courts. Appointment of law reporters

(2) Such person or persons shall hold office at the pleasure of the benchers, and are amenable to them in convocation for the correct and faithful discharge of their duties according to such regulations as the benchers make in respect thereof. Tenure of office

(3) The benchers shall make regulations for printing and publishing the reports of such decisions, and the distribution of the reports and the price and mode of issuing the same, and all such other regulations in respect thereto as they at any time consider necessary, and any profits arising from the reports form part of the general funds of the Society. Benchers to make regulations regarding the reports

(4) The benchers shall determine the salaries to be allowed for such reporting and editing and shall pay them out of the general funds of the Society. R.S.O. 1950, c. 200, s. 52. Salaries of reporters

55. The fees payable by barristers on call to the bar and annually, and by solicitors on admission, and for the annual certificate to practise, and by students on admission as such, and by them and others on examinations and attendance on lectures and readings, shall be paid into the general funds of the Society, and shall be such as the benchers prescribe. R.S.O. 1950, c. 200, s. 53. Appropriation of certain fees

Power of
benchers to
fix limits
of financial
year

56.—(1) The benchers may from time to time fix and adjust by rule the limits of the Society's financial year and shall cause the revenues and expenditures of the Society for each financial year as so fixed to be duly audited by an auditor appointed by the benchers to audit the accounts and report upon the finances of the Society.

Statement
to be sent
to members

(2) The statement, together with the report of the auditor, shall be furnished annually, within three months after the close of the financial year, to every member of the Society entitled to vote at an election of benchers. R.S.O. 1950, c. 200, s. 54.

Remission
of penalties

57. The benchers may remit any fee or penalty, or any part thereof, that is payable to the Society. R.S.O. 1950, c. 200, s. 55.

FORM 1

(Section 15)

VOTING PAPER

Law Society Election, 19.....

The appointed scrutineers for this election are Mr.....of
....., and Mr.....of.....
I,, of the.....in the.....of
....., Barrister, do hereby declare—

1. That the signature hereto is in my proper handwriting.
2. That I vote for the following persons as Benchers of the Law Society:
A.B. of..... in the..... of
C.D. of..... in the..... of
etc. etc.
3. That I have signed no other voting paper at this election.
4. That this voting paper is signed on the day of the date thereof.

Witness my hand this..... day of, 19.....

R.S.O. 1950, c. 200, Form 1.

CHAPTER 208

The Legislative Assembly Act

1. The Assembly shall be composed of as many members as is fixed from time to time by *The Representation Act*. R.S.O. 1950, c. 202, s. 1.

Assembly,
how
composed
R.S.O. 1960,
c. 353

2.—(1) The Legislature shall not determine or be dissolved by the demise of the Crown, but shall continue, and may meet, convene and sit, proceed and act, in the same manner as if such demise had not happened.

Demise of
the Crown

(2) Nothing in this section alters or abridges the power of the Crown to prorogue or dissolve the Legislature. R.S.O. 1950, c. 202, s. 2.

Power to
prorogue or
dissolve not
affected

3. Every Legislature shall continue for five years from the fifty-fifth day after the date of the writs for the election and no longer, subject to being sooner dissolved by the Lieutenant Governor. R.S.O. 1950, c. 202, s. 3.

Duration of
Legislature

4. There shall be a session of the Legislature once at least in every year, so that twelve months do not intervene between the last sitting of the Legislature in one session and its first sitting in the next. R.S.O. 1950, c. 202, s. 4.

Yearly
session

5. It is not necessary for the Lieutenant Governor in proroguing the Legislature to name a day to which it is prorogued, nor to issue a formal proclamation for a meeting of the Legislature when it is not intended that the Legislature shall meet for despatch of business. R.S.O. 1950, c. 202, s. 5.

Prorogation

6.—(1) Subject to subsection 2, the persons qualified to sit and vote as members of the Assembly are any male or female persons of the full age of twenty-one years who are British subjects by birth or by naturalization under the laws of Canada from time to time in force, resident in Ontario and not disqualified by this or any other Act from election to the Assembly.

Qualification
of members

(2) For the purposes of this Act, a female person shall be deemed to be a British subject,

Where
women
deemed
British
subjects

- (a) if she was born a British subject and is unmarried, or is married to a British subject and has not become a subject of a foreign power; or

- (b) if she has herself been personally naturalized as a British subject and has not since become a subject of a foreign power; or
- (c) if she has become a British subject by marriage or by the naturalization as a British subject of her parent while she was a minor, and in either case has done nothing to forfeit or lose her status as a British subject, and has obtained a certificate under the signature of a judge of the Supreme Court or of a county or district court, and the seal of the court, certifying that she is of the full age of twenty-one years, has resided in Canada a sufficient length of time and is possessed of all requirements necessary to entitle her, if unmarried, to become naturalized as a British subject, and that she has taken the oath of allegiance to Her Majesty. R.S.O. 1950, c. 202, s. 6.

Senators
and mem-
bers of
House of
Commons
disqualified

7.—(1) No person who on the day of nomination for election to the Assembly is a member of the Senate of Canada or of the House of Commons of Canada is eligible as a member of the Assembly or be returned as elected thereto, and if any such person receives a majority of votes at an election, the votes cast for him shall be thrown away and the returning officer shall return the person having the next greatest number of votes if he is otherwise eligible.

Vacation
of seat

(2) If a member of the Assembly is elected and returned to the House of Commons of Canada or is appointed to the Senate of Canada, his seat in the Assembly is thereupon vacated and a writ shall issue forthwith for a new election to fill the vacancy. R.S.O. 1950, c. 202, s. 7.

Disqualifica-
tion of
persons
holding
office under
Crown

8.—(1) Except as hereinafter specially provided, no person accepting or holding any office, commission or employment in the service of the Government of Canada, or of the Government of Ontario at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada or of the Government of Ontario to which any salary, fee, wage, allowance, emolument or profit of any kind is attached is eligible as a member of the Assembly or shall sit or vote therein. R.S.O. 1950, c. 202, s. 8 (1).

Exceptions

(2) Nothing in this section renders ineligible as aforesaid or disqualifies from sitting and voting in the Assembly when not otherwise disqualified,

- (a) a member of the Executive Council;
- (b) an officer or other member of Her Majesty's navy, army or air force, or an officer in the militia or a militiaman;

- (c) a justice of the peace, coroner, notary public or public school inspector;
- (d) any person holding any temporary employment in the service of the Government of Canada requiring special qualifications or professional skill, or a commissioner appointed under the *Inquiries Act* (Canada); R.S.C. 1952, c. 154
- (e) a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council, but this clause does not apply to members of the Ontario Labour Relations Board, The Liquor Licence Board of Ontario, the Ontario Municipal Board, the Workmen's Compensation Board, the Ontario Securities Commission, The Milk Control Board of Ontario, the Civil Service Commission, or the Board of Parole. R.S.O. 1950, c. 202, s. 8 (2); 1953, c. 56, s. 1.

9. No person holding or enjoying, undertaking or executing, directly or indirectly, alone or with another, by himself or by the interposition of a trustee or third person, any contract or agreement with Her Majesty, or with any public officer or department, with respect to the public service of Ontario, or under which any public money of Ontario is to be paid for any service, work, matter or thing, is eligible as a member of the Assembly or shall sit or vote therein. R.S.O. 1950, c. 202, s. 9. Disqualification of public contractors

10.—(1) No person is ineligible as a member of the Assembly, Exceptions:

- (a) by reason of his being interested as an executor, administrator or trustee only, having otherwise no beneficial interest in any such contract or agreement; trustees for estates of contractors
- (b) by reason of his being a shareholder or stockholder in an incorporated company having any such contract or agreement, unless such contract or agreement is for the building of a public work of Ontario, and such building or work has not been let by tender to the lowest bidder; shareholders in contracting companies
- (c) by reason of his being a contractor for the loan of money or for securities for the payment of money to the Government of Ontario under the authority of the Legislature after public competition or respecting the purchase or payment of the public stock or debentures of Ontario on terms common to all persons; lenders of money to Government
- (d) by reason of his being the holder of a mining licence or having a contract or agreement with Her Majesty holders of mining licences, etc.

or with any public officer or department with respect to the same or to mines or mining rights, but no such person shall vote on any question affecting such licence, contract or agreement or in which he is interested by reason thereof;

owners and
persons
interested
in certain
newspapers

- (e) by reason of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements are inserted which appear in other newspapers or publications in Ontario, or which is subscribed for by the Government of Ontario, or any department thereof, or by any of the public institutions of Ontario, unless such advertisements or subscriptions are paid for out of the public moneys of Ontario at rates greater than usual rates;

timber
licensees

- (f) by reason of his holding a licence, permit or permission for cutting timber, or being interested in any such licence, permit or permission, directly or indirectly, alone or with another, by himself or by the interposition of a trustee or third person, or by reason of there being money due or payable to Her Majesty in respect of timber cut, but no such person shall vote on any question affecting such licence, permit or permission or in which he is interested by reason thereof;

fishery
licensees

- (g) by reason of his being the holder of a fishery licence, or having a contract or agreement with Her Majesty or with any public officer or department with respect to the same or to fisheries or fishing rights, but no such person shall vote on any question affecting such licence, contract or agreement or in which he is interested by reason thereof;

certain
sureties or
obligors

- (h) by reason of his being a surety or contractor or liable for the payment of money for or on account of the maintenance or tuition of an inmate or pupil of any Government institution;

certain post-
masters and
mail carriers

- (i) by reason of his being a postmaster elsewhere than in a city, town or incorporated village, or interested in a contract for carrying the mail between two or more post offices neither of which is in a city, town or incorporated village or of his being the surety of any such postmaster or contractor;

receipt of
compensa-
tion for land
not to
disqualify

- (j) by reason of his receiving or having received or agreed to receive compensation in respect to any property taken or purchased by the Crown or by any department or commission of the Government of

Ontario or with respect to any interest in such property where the amount of such compensation has been fixed by an award made under *The Public Works Act* or any other general or special Act of the Legislature, or has been agreed upon and the judge of the county or district court of the county or district in which the property is situate has certified in writing that the amount of compensation is fair and reasonable, but no such person shall vote on any question arising in the Assembly touching such matter;

(k) by reason of his being a surety for a public officer or Ontario land surveyor or other person required by law to furnish security to the Crown; R.S.O. 1950, c. 202, s. 10 (1). sureties of public officers

(l) by reason of having received payment from the Crown for the burial of indigents who were resident in territory without municipal organization. 1957, c. 60, s. 1, *amended*. burial of indigents

(2) A person elected a member of the Assembly who is at the time of his election a surety as aforesaid shall, before he sits or votes therein, take and complete such action as may be requisite to relieve him from any thereafter accruing liability in respect of his suretyship, and no person who is liable as such surety in respect of any accruing matter shall sit or vote in the Assembly. R.S.O. 1950, c. 202, s. 10 (2). Duty of sureties who have been elected

11. No disqualification under section 8 or 9 on any ground arising before the election shall be held by any court to affect the seat of a member of the Assembly or to disentitle any person to sit or vote therein until the disqualification has been duly found and declared by an election court, but this is not to be construed as affecting the cases provided for by subsection 2 of section 10, nor as affecting the right of the Assembly to expel a member according to the practice of Parliament or otherwise. R.S.O. 1950, c. 202, s. 11; 1953, c. 56, s. 2. When disqualification to become operative

12. If a person who is disqualified or ineligible or incapable of being elected a member of the Assembly is nevertheless elected and returned, his election and return is void. R.S.O. 1950, c. 202, s. 12. Effect of election of disqualified person

13. Notwithstanding anything in any Act, where a member of the Assembly is appointed a member of the Executive Council, he shall not, by reason of the acceptance of such appointment, vacate his seat or be disqualified from sitting or voting in the Assembly. R.S.O. 1950, c. 202, s. 13. Member not disqualified on appointment to Executive Council

Disqualifica-
tion
through
acceptance
of office

14.—(1) If a member of the Assembly by accepting any office or becoming a party to a contract or agreement as in sections 8 and 9 mentioned, is disqualified by law to continue to sit or vote in the Assembly, his seat shall be vacated, but he may be re-elected if he is not declared ineligible under this Act.

Saving in
case of,
exchange of
offices in
Executive
Council
R.S.O. 1960,
c. 127

(2) Nevertheless, whenever a person holding any of the offices mentioned in section 2 of *The Executive Council Act* and being at the same time a member of the Assembly resigns his office and accepts any other of such offices, he does not thereby vacate his seat in the Assembly.

additional
offices in
Executive
Council

(3) Where a member of the Executive Council holding any one of the offices mentioned in section 2 of *The Executive Council Act* is appointed to hold another office in addition to or in connection with such first-mentioned office, he does not thereby vacate his seat, and any increase or change of emolument arising from the holding of such two offices does not cause a vacancy or render a re-election necessary. R.S.O. 1950, c. 202, s. 14, *amended*.

Penalty
upon
disqualified
person
sitting
or voting

15.—(1) Subject to section 11, a person ineligible as a member of or disqualified from sitting or voting in the Assembly who sits or votes therein while he is so ineligible or disqualified, shall forfeit the sum of \$2,000 for every day on which he so sits or votes, and such sum may be recovered from him by any person who sues for it in any court of competent jurisdiction.

Idem

(2) If an action is brought and judgment is recovered against the defendant, no other action shall be brought or proceeding taken against him for any act under this section committed before notice to him of the recovery of the judgment.

Staying
proceedings
in other
actions

(3) The court wherein any other action is brought contrary to the intent and meaning of this Act, may upon the defendant's motion, stay the proceedings therein, if the first-mentioned action be prosecuted without fraud and with effect, but no action shall be deemed an action within this section unless so prosecuted. R.S.O. 1950, c. 202, s. 15.

Affidavit
to be filed
before oath
taken
1867, c. 3
(Imp.)

16. Before a member elect is permitted to take the oath of allegiance required by *The British North America Act, 1867*, he shall file with the Clerk of the Assembly an affidavit (Form 1). R.S.O. 1950, c. 202, s. 16.

17.—(1) A member elect may at any time before his election is complained of disclaim his seat in the manner herein-after provided, and he thereby vacates the seat and ceases to be a member in respect of the seat so disclaimed.

Disclaimer
by member
elect

(2) A member elect who desires to disclaim may transmit by registered mail addressed to the Clerk of the Legislative Assembly, Toronto, or cause to be delivered to him, a disclaimer signed by the member in the presence of two subscribing witnesses to the following effect:

Mode of
disclaiming

I,, member elect to the Legislative Assembly for the electoral district of, hereby disclaim all my right or title to sit or vote or in any manner to act as such member.

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy thereof,

Transmis-
sion of copy
of disclaimer

(a) in the case of an election that has taken place in the County of York or the City of Toronto, to the Registrar of the Supreme Court at Toronto;

(b) in the case of an election that has taken place elsewhere, to the local registrar for the county or provisional judicial district in which the electoral district for which the member so disclaiming or any part thereof is situate, was elected.

(4) A petition that has been presented before the petitioner has notice of the filing of a disclaimer and in which the election is complained of on any ground other than of corrupt practices committed by the member elect or of corrupt practices having extensively prevailed at the election and in which the seat is not claimed for the petitioner or some other person, may be dismissed by a judge of the Court of Appeal on notice to the petitioner and on proof by affidavit that the disclaimer has been given in the prescribed manner.

Dismissal
of petition
where
disclaimer
filed

(5) If no petition is filed within the time limited for that purpose by *The Controverted Elections Act*, or if the petition is dismissed, the Lieutenant Governor in Council may direct the issue of a new writ for the election of a member in the place of the member disclaiming. R.S.O. 1950, c. 202, s. 17.

Issuing writ
when no
petition filed
after
disclaimer

R.S.O. 1960,
c. 65

18. If a person returned as elected at a general election wishes to resign his seat before the first session of the Legislature thereafter, he may address and cause to be delivered to any two members elect of the Assembly a declaration that he resigns his seat, made in writing under his hand before two

Resignation
before
meeting of
Legislature

subscribing witnesses, and the two members upon receiving the declaration shall forthwith address their warrant under their hands and seals to the Chief Election Officer for the issue of a writ for the election of a member for the electoral district in the place of the member so resigning, and the writ shall issue accordingly. R.S.O. 1950, c. 202, s. 18; 1954, c. 44, s. 1, *amended*.

In other cases

19.—(1) A member may also resign his seat,

- (a) by giving in his place in the Assembly notice of his intention to resign it, which notice shall be entered immediately by the Clerk of the Assembly upon the Journals of the Assembly; or
- (b) by addressing and causing to be delivered to the Speaker a declaration that he resigns his seat, made in writing under his hand before two subscribing witnesses, which declaration may be so made and delivered either during a session of the Legislature or in the interval between two sessions.

Record

(2) An entry of the declaration so delivered to the Speaker shall thereafter be made upon the Journals of the Assembly. R.S.O. 1950, c. 202, s. 19 (1, 2).

New writ

(3) Immediately after the notice of intention to resign has been entered upon the Journals, or after the receipt of the declaration, as the case may be, the Speaker shall address his warrant under his hand and seal to the Chief Election Officer for the issue of a writ for the election of a member in the place of the member so resigning, and in either case the writ shall issue accordingly. R.S.O. 1950, c. 202, s. 19 (3); 1954, c. 44, s. 2.

Where there is no Speaker, or the member is himself the Speaker

20. If a member wishes to resign his seat in the interval between two sessions of the Legislature, and there is then no Speaker, or the Speaker is absent from Ontario, or if the member is himself the Speaker, he may address and cause to be delivered to two members the declaration before mentioned, and the two members upon receiving the declaration shall forthwith address their warrant under their hands and seals to the Chief Election Officer for the issue of a writ for the election of a member in the place of the member so resigning, and the writ shall issue accordingly. R.S.O. 1950, c. 202, s. 20; 1954, c. 44, s. 3.

Consequences of resignation

21.—(1) A member or member elect tendering his resignation in any manner hereinbefore provided for shall be deemed to have vacated his seat and to have ceased to be a member of the Assembly in respect thereof.

(2) A member or member elect shall not tender his resignation while his election is controverted, nor until after the expiration of the time within which an election petition may be filed. R.S.O. 1950, c. 202, s. 21. Time for resignation

22.—(1) Forthwith after the receipt by the Speaker, or if there is no Speaker, or the Speaker is absent from Ontario, by the Clerk of the Assembly, of a certificate under *The Controverted Elections Act* that an election was void, the Speaker or the Clerk of the Assembly, as the case may be, shall address his warrant under his hand and seal to the Chief Election Officer for the issue of a writ for the election of a member for the electoral district, the election for which has been certified to be void, and the writ shall issue accordingly. R.S.O. 1950, c. 202, s. 22 (1); 1954, c. 44, s. 4. Issue of writ for new election, when election declared void
R.S.O. 1960, c. 65

(2) The Speaker shall forthwith after the receipt of the certificate, communicate the same to the Clerk of the Assembly. R.S.O. 1950, c. 202, s. 22 (2). Notification

23. The proceedings taken under sections 18 to 22 by the Speaker or Clerk of the Assembly shall be reported to the Assembly at the earliest practicable time, and shall be forthwith entered upon the Journals. R.S.O. 1950, c. 202, s. 23. Report to Assembly

24.—(1) If a person returned as elected appears by the certificate mentioned in section 22 not to have been duly returned or elected, he shall not thereafter unless re-elected sit or vote in the Assembly. Disqualification of persons declared not elected

(2) If a person, other than the person returned as elected, appears by the certificate to have been duly returned or elected, he is thereupon entitled to sit and vote in the Assembly. R.S.O. 1950, c. 202, s. 24. Rights of persons declared elected

25. No writ shall issue under sections 18 to 24 during a session of the Legislature. R.S.O. 1950, c. 202, s. 25. Writ not to issue during session

26.—(1) If a vacancy occurs in the Assembly by the death of a member, or by his accepting an office, commission or employment, or by his becoming a party to a contract as mentioned in section 9, unless otherwise provided by this Act, the Speaker, on being informed of the vacancy by a member of the Assembly in his place, or by notice in writing under the hands and seals of two members, shall forthwith address his warrant to the Chief Election Officer for the issue of a writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. R.S.O. 1950, c. 202, s. 26 (1); 1954, c. 44, s. 5 (1). Proceedings in case of vacancy by death or acceptance of office

Proceedings
when
Speaker is
absent from
Ontario or
there is no
Speaker

(2) If any such vacancy occurs, or at any time thereafter, before the warrant for the writ has issued, there is no Speaker, or the Speaker is absent from Ontario, or if the member whose seat is vacated is himself the Speaker, then two members may address their warrant under their hands and seals to the Chief Election Officer for the issue of a writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. R.S.O. 1950, c. 202, s. 26 (2); 1954, c. 44 s. 5 (2).

Filling a
vacancy
before
Legislature
meets after
a general
election

27.—(1) A warrant may issue under the hands and seals of two members elect to the Chief Election Officer for the issue of a writ for the election of a member to fill a vacancy arising after a general election and before the first session of the Legislature thereafter, by reason of any of the causes mentioned in section 26, and the writ may issue at any time after such vacancy. R.S.O. 1950, c. 202, s. 27 (1); 1954, c. 44, s. 6.

Election
being con-
tested not
affected

(2) The election to be held under the writ does not affect the right of any person entitled to contest the previous election, and the election court shall determine whether the member who has died or whose seat has become vacant as aforesaid, or any other person, was duly returned or elected, which determination, if adverse to the return of such member and in favour of any other candidate, avoids the election held under this section, and the candidate declared duly elected at the previous election is entitled to take his seat as if no subsequent election had been held. R.S.O. 1950, c. 202, s. 27 (2).

Where
vacancy
exists for
three
months

28. Subject to section 25, if the seat of a member has been vacant for three months and no writ has been issued, the Chief Election Officer shall issue the writ forthwith. R.S.O. 1950, c. 202, s. 28; 1954, c. 44, s. 7.

Election of
Speaker

29.—(1) The Assembly at its first meeting after a general election shall proceed to elect one of its members to be Speaker.

Vacancy in
office of
Speaker

(2) In case of a vacancy in the office of Speaker, the Assembly shall proceed to elect another of its members to be Speaker. R.S.O. 1950, c. 202, s. 29.

Duty to
preside

30. The Speaker shall preside at all meetings of the Assembly. R.S.O. 1950, c. 202, s. 30.

Illness, etc.,
of the
Speaker

31. When the Speaker finds it necessary to leave the chair during any part of the sittings on any day, he may call upon any member to take the chair and to act as speaker during the remainder of the day unless the Speaker himself resumes the chair before the close of the sittings for that day. R.S.O. 1950, c. 202, s. 31.

32. When the Speaker is not present at the meeting of the Assembly on any day, the Assembly may elect a member to take the chair and act as speaker for that day. R.S.O. 1950, c. 202, s. 32. Election of Speaker for the day

33. If the Speaker is absent from the chair for a period of forty-eight consecutive hours, the Assembly may elect another of its members to act as speaker, and the member so elected, during the continuance of the absence of the Speaker, has all the powers, privileges and duties of the Speaker. R.S.O. 1950, c. 202, s. 33. Election of speaker pro tem

34. Every bill passed and every order made and thing done by the Assembly while a member is acting as speaker is as valid and effectual as if done while the Speaker himself was in the chair. R.S.O. 1950, c. 202, s. 34. Validity of acts while acting Speaker presides

35.—(1) The Assembly may at all times command and compel the attendance before the Assembly or a committee thereof of such persons, and the production of such papers and things, as the Assembly or committee deems necessary for any of its proceedings or deliberations. Power to compel attendance of witnesses, etc.

(2) When the Assembly requires the attendance of a person before the Assembly or a committee thereof, the Speaker may issue his warrant directed to the person named in the order of the Assembly requiring his attendance before the Assembly or committee and the production of the papers and things as ordered. R.S.O. 1950, c. 202, s. 35. Speaker's warrant for attendance etc.

36. No person is liable in damages or otherwise for any act done under the authority of the Assembly and within its legal power or under or by virtue of a warrant issued under such authority, and every such warrant may command the aid and assistance of all sheriffs, bailiffs, constables and others, and every refusal or failure to give such aid or assistance when required is a contravention of this Act. R.S.O. 1950, c. 202, s. 36. Protection of persons acting under authority

37. A member of the Assembly is not liable to any civil action or prosecution, arrest, imprisonment or damages, by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Assembly or a committee thereof. R.S.O. 1950, c. 202, s. 37. Privilege of speech, etc.

38. Except for a contravention of this Act, a member of the Assembly is not liable to arrest, detention or molestation for any cause or matter whatever of a civil nature during a session of the Legislature or during the twenty days preceding or the twenty days following a session. R.S.O. 1950, c. 202, s. 38. Freedom from arrest

Exemption
of members
and officers
from serving
as jurors

39. During the periods mentioned in section 38, members, officers and employees of the Assembly and witnesses summoned to attend before the Assembly or a committee thereof are exempt from serving or attending as jurors in any court of justice in Ontario. R.S.O. 1950, c. 202, s. 39.

Members
not to re-
ceive fees for
drafting bills
etc.

40. No member of the Assembly shall knowingly accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted or intended to be submitted to the Assembly or a committee thereof. R.S.O. 1950, c. 202, s. 40.

Barristers,
etc., being
partners of
members not
to receive
fees for
drafting
bills, etc.

41. No barrister or solicitor who in the practise of his profession is a partner of a member of the Assembly shall knowingly accept or receive, directly or indirectly, any fee, compensation or reward for or in respect of any matter or thing mentioned in section 40. R.S.O. 1950, c. 202, s. 41.

Penalty

42. Every person contravening any of the provisions of section 40 or 41 is liable to a penalty equal to the amount or value of the fee, compensation or reward accepted or received by him and the sum of \$500. R.S.O. 1950, c. 202, s. 42.

Breach of
s. 40 a cor-
rupt practice

43. Any contravention of section 40 is a corrupt practice, and an election petition setting up the contravention may be filed within six months after the contravention in the same manner and the proceedings thereupon shall be the same as in the case of other election petitions. R.S.O. 1950, c. 202, s. 43.

Vacation
of seat

44. If judgment is recovered against a member of the Assembly for any penalty under section 42, or if by a resolution of the Assembly it is declared that a member has been guilty of a contravention of section 40, or if upon an election petition it is found that a member has been guilty of a contravention of section 40, his election becomes void and his seat shall be vacated, and a writ shall issue for a new election as if he were dead and he is incapable of being elected to or of sitting in the Assembly during the remainder of the term for which he was elected. R.S.O. 1950, c. 202, s. 44.

Jurisdiction
of Assembly

45.—(1) The Assembly has all the rights and privileges of a court of record for the purposes of summarily inquiring into and punishing, as breaches of privilege or as contempt and without affecting the liability of the offenders to prosecution and punishment criminally or otherwise according to law, independently of this Act, the acts, matters and things following:

Assaults,
insults,
libels

1. Assault, insult or libel upon a member of the Assembly during a session of the Legislature or during the twenty days preceding or the twenty days following a session.

2. Obstructing, threatening or attempting to force or intimidate a member of the Assembly. Threats
3. Offering to, or the acceptance by, a member of the Assembly of a bribe to influence him in his proceedings as such, or offering to or the acceptance by a member of any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted to or intended to be submitted to the Assembly or a committee thereof. Bribery and offering of fee
4. Assault upon or interference with an officer of the Assembly while in the execution of his duty. Interference with officers
5. Tampering with a witness in regard to evidence to be given by him before the Assembly or a committee thereof. Tampering with witness
6. Giving false evidence or prevaricating or misbehaving in giving evidence or refusing to give evidence or to produce papers before the Assembly or a committee thereof. False evidence
7. Disobedience to a warrant requiring the attendance of a witness before the Assembly or a committee thereof, or refusal or neglect to obey a warrant mentioned in section 36. Disobedience to warrant
8. Presenting to the Assembly or to a committee thereof a forged or false document with intent to deceive the Assembly or committee. Presenting false documents
9. Forging, falsifying or unlawfully altering a record of the Assembly or of a committee thereof, or any document or petition presented or filed or intended to be presented or filed before the Assembly or committee, or the setting or subscribing by any person of the name of another person to any such document or petition with intent to deceive. Falsifying records, etc.
10. Taking any civil proceeding against, or causing or effecting the arrest or imprisonment of a member of the Assembly in any civil proceeding, for or by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Assembly or a committee thereof. Taking civil proceedings against member
11. Causing or effecting the arrest, detention or molestation of a member of the Assembly for any cause or matter of a civil nature during a session of the Legislature or during the twenty days preceding or the twenty days following a session. Arresting member for debt, etc.

Jurisdiction
given as to
inquiring
and
punishing

(2) For the purposes of this Act, the Assembly possesses all the powers and jurisdiction necessary or expedient for inquiring into, adjudging and pronouncing upon the commission or doing of the acts, matters or things mentioned in subsection 1 and for awarding and carrying into execution the punishment thereof. R.S.O. 1950, c. 202, s. 45.

Punishment
for contra-
vention of
s. 45

46. Every person who, upon such inquiry, is found to have committed or done any of the acts, matters, or things mentioned in section 45, in addition to any other penalty or punishment to which he may by law be subject, is liable to imprisonment for such time during the session of the Legislature then being held as is determined by the Assembly. R.S.O. 1950, c. 202, s. 46.

Proceeding
on contra-
vention of
s. 45 and
arrest
thereunder

47.—(1) Where the Assembly declares that a person has been guilty of a breach of privilege or of a contempt in respect of any of the acts, matters and things mentioned in section 45 and directs that the person be kept and detained in the custody of the sergeant-at-arms attending the Assembly, the Speaker shall issue his warrant to the sergeant-at-arms to take the person into custody and to keep and detain him in custody in accordance with the order of the Assembly.

Warrant of
committal

(2) Where the Assembly directs that the imprisonment shall be in the common jail in the county of York, the Speaker shall issue his warrant to the sergeant-at-arms and to the governor or keeper of such common jail commanding the sergeant-at-arms to take such person into custody and to deliver him to the governor or keeper of such common jail, and commanding the governor or keeper of the common jail to receive and keep and detain him in custody in accordance with the order of the Assembly. R.S.O. 1950, c. 202, s. 47.

Decision of
Assembly
final

48. The determination of the Assembly upon any proceeding under this Act is final and conclusive. R.S.O. 1950, c. 202, s. 48.

Protection
of persons
publishing
papers by
order of
Assembly

49.—(1) Any person who is a defendant in a civil proceeding commenced in any manner for or in respect of the publication of any report, paper, vote or proceeding by such person or by his servant by or under the authority of the Assembly may bring before the court in which the proceeding is pending (first giving twenty-four hours notice of his intention so to do to the plaintiff or his solicitor) a certificate under the hand of the Speaker or of the Clerk of the Assembly, stating that the report, paper, vote or proceeding in respect whereof the proceeding has been commenced was published by such person or by his servant by order or under the authority of the Assembly together with an affidavit verifying the certificate.

(2) The court shall thereupon immediately stay the proceeding and it and every writ or process issued therein shall be taken to be finally put an end to, determined and superseded. R.S.O. 1950, c. 202, s. 49.

Stay of proceedings

50.—(1) If a civil proceeding is commenced for or in respect of the publication of a copy of such report, paper, vote or proceeding, the defendant at any stage of the proceeding may lay before the court the report, paper, vote or proceeding and the copy with an affidavit verifying the report, paper, vote or proceeding and the correctness of the copy.

Production of papers to court

(2) The court shall thereupon immediately stay the proceeding and it and every writ or process issued therein shall be taken to be finally put an end to, determined and superseded. R.S.O. 1950, c. 202, s. 50.

Stay of proceedings

51. It is a good defence to any civil proceeding against a person for printing any extract from or abstract of any such report, paper, vote or proceeding that the extract or abstract was published *bona fide* and without malice. R.S.O. 1950, c. 202, s. 51.

Bona fide publication

52. Except so far as is provided by section 40, nothing in this Act shall be construed to deprive the Assembly or a committee or member thereof of any right, immunity, privilege or power that the Assembly, committee or member might otherwise have been entitled to exercise or enjoy. R.S.O. 1950, c. 202, s. 52.

Saving of privileges inherent in Assembly or members

53. Where the Assembly has adopted the report of the Printing Committee of the Assembly recommending the purchase of any publication for the use of the members of the Assembly or for other persons, the publication may be purchased by the Treasurer of Ontario and distributed according to the recommendations of the report, and the cost thereof shall be paid out of any sum appropriated by the Legislature for stationery, printing and binding. R.S.O. 1950, c. 202, s. 53.

Payment for books ordered by Printing Committee

54. At least twenty members of the Assembly is necessary to constitute a quorum for the transaction of business, and for that purpose the Speaker shall be counted. R.S.O. 1950, c. 202, s. 54.

Quorum

55. Questions arising in the Assembly shall be decided by a majority of voices, other than that of the Speaker, and, when the voices are equal, the Speaker has a vote. R.S.O. 1950, c. 202, s. 55.

Voting

Condition
precedent to
appropriations

56. The Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the Consolidated Revenue Fund, or of any tax or impost, to any purpose that has not been first recommended by a message of the Lieutenant Governor to the Assembly during the session in which the vote, resolution, address or bill is proposed. R.S.O. 1950, c. 202, s. 56.

Commissioners on
estate bills

57. The judges of the Supreme Court are *ex officio* commissioners to report under the Rules of the Assembly in respect of estate bills. R.S.O. 1950, c. 202, s. 57.

Power of
committees
to examine
on oath

58. Any standing or special committee of the Assembly may require that facts, matters and things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses, and may examine witnesses upon oath, and for that purpose the chairman or any member of the committee may administer the oath (Form 2). R.S.O. 1950, c. 202, s. 58.

Affidavits

59. Where witnesses are not required to be examined orally, an affirmation, declaration or affidavit, that is required to be made or taken by or according to any rule or order of the Assembly, or by the direction of any committee, and in respect of any matter or thing pending or proceeding before the committee, may be made and taken before the Clerk of the Assembly, the clerk of the committee, a commissioner for taking affidavits or a justice of the peace. R.S.O. 1950, c. 202, s. 59.

Members'
indemnities
and allowances,
amounts

60.—(1) Every member of the Assembly shall be paid,

- (a) an indemnity at the rate of \$5,000 per annum; and
- (b) an allowance for expenses at the rate of \$2,000 per annum. R.S.O. 1950, c. 202, s. 60 (1); 1960, c. 57, s. 1 (1, 2).

computation

(2) For the purpose of computing the amount of any indemnity or allowance payable under this section, a member shall be deemed to have been a member from the polling day on which he was elected and, when the Legislature of which he was a member was dissolved, he shall be deemed to have been a member until the day preceding the polling day that followed the dissolution, or until his death, whichever occurs first. R.S.O. 1950, c. 202, s. 60 (2), *amended*.

when paid

(3) Every indemnity and allowance under this section shall be paid on the 31st day of March in each year, but when a member resigns or dies or for any other reason ceases to be a member, the amounts that are payable to him for the period then concluded shall be paid forthwith. R.S.O. 1950, c. 202, s. 60 (3).

(4) Notwithstanding subsection 3, each member on his ^{advances} request shall be paid by way of advance any part of his allowance for expenses, not exceeding \$150 per month, that has accrued at the time the request is made. 1954, c. 44, s. 8; 1960, c. 57, s. 1 (3).

61.—(1) In addition to his indemnity and allowance for ^{Allowance for expenses of representation} expenses as a member, there shall be paid to every minister of the Crown in charge of a department and to the minister of the Crown who is a member of The Hydro-Electric Power Commission of Ontario and to the Leader of the Opposition an allowance for the expenses of representation at the rate of \$2,000 per annum. 1956, c. 39, s. 2.

(2) In addition to his indemnity and allowance for expenses ^{Idem} as a member, there shall be paid to every minister of the Crown without portfolio, other than the minister without portfolio who is a member of The Hydro-Electric Power Commission of Ontario, an allowance for the expenses of representation at the rate of \$1,000 per annum. 1959, c. 51, s. 1; 1960, c. 57, s. 2.

62.—(1) In addition to his indemnity and allowance for ^{Speaker's and Leader of the Opposition's indemnities and allowances, amount} expenses as a member, there shall be paid,

(a) to the Speaker,

(i) an indemnity at the rate of \$3,000 per annum, and

(ii) an allowance for expenses at the rate of \$2,000 per annum; and

(b) to the Leader of the Opposition an indemnity at the rate of \$12,000 per annum. R.S.O. 1950, c. 202, s. 61 (1); 1952, c. 51, s. 2; 1960, c. 57, s. 3 (1).

(2) For the purpose of computing the amount of any in- ^{computation} demnity or allowance payable under this section, the Speaker and the Leader of the Opposition, respectively, shall be deemed to have occupied the position from the polling day on which he was elected a member of the Assembly and, when the Legislature in which he occupied the position was dissolved, he shall be deemed to have occupied the position until the day preceding the polling day that followed the dissolution, or until his death, whichever occurs first; provided that, when the occupant of the position changes, the member succeeding to the position shall be deemed to have occupied the position from the day following that on which his predecessor ceased to occupy the position. R.S.O. 1950, c. 202, s. 61 (2), *amended*.

(3) Every indemnity and allowance under this section shall ^{when paid} be paid on the 31st day of March in each year, but when the Speaker or the Leader of the Opposition, as the case may be, ceases to occupy the position, the amounts that are payable

to him for the period then concluded shall be paid forthwith. R.S.O. 1950, c. 202, s. 61 (3).

advances

(4) Notwithstanding subsection 3, the Speaker upon his request shall be paid by way of advance any part of his allowance for expenses, not exceeding \$140 per month, that has accrued at the time the request is made. 1954, c. 44, s. 9; 1960, c. 57, s. 3 (2).

Chairman of
the Com-
mittees of
the Whole
House,
indemnity

63.—(1) In addition to his indemnity as a member, the Chairman of the Committees of the Whole House shall be paid an indemnity of \$2,000 for each session. R.S.O. 1950, c. 202, s. 62 (1); 1960, c. 57, s. 4.

when paid

(2) The indemnity under this section shall be paid at the close of the session, and if in any session more than one person occupied the position, the indemnity shall be divided among them in proportion to the time that each occupied the position during the session. R.S.O. 1950, c. 202, s. 62 (2).

Members
mileage
allowance

64. There shall be allowed to each member of the Assembly in respect of six trips per annum from his place of residence to the seat of government at Toronto 10 cents for every mile of the distance between his place of residence and Toronto, which distance shall be determined and certified by the Speaker. 1954, c. 44, s. 10, *part*; 1956, c. 39, s. 3.

Members of
committees,
per diem
allowance

65.—(1) There shall be paid to each member of a committee of the Assembly, other than the chairman thereof, an allowance for expenses of \$30, and to the chairman thereof an allowance for expenses of \$35, in respect of every day during the interval between sessions of the Assembly,

- (a) upon which he attends a meeting of the committee; or
- (b) upon which he is absent from home and is engaged on the work of the committee, other than days spent travelling to and from meetings of the committee.

travelling
allowance

(2) There shall be paid to each member of a committee of the Assembly an allowance for travelling of \$20, and his actual disbursements for berth, meals and gratuities, for each day spent travelling to and from meetings of the committee.

disburse-
ments

(3) In the case of an inspection tour by a committee of the Assembly, there shall be paid to each member thereof his actual disbursements for transportation and sleeping accommodation. 1954, c. 44, s. 10, *part*.

FORM 1

(Section 16)

AFFIDAVIT OF MEMBER ELECT

I, of the of
in the of , elected to represent the Electoral
District of (as the case may be) in the Legislative
Assembly of the Province of Ontario, make oath and say: That, except
in respect of my personal expenses, I have not made, before, during or
since my election, any payment, advance, loan or deposit for the purposes
of the election last held for the electoral district otherwise than through
my official agent appointed under *The Election Act*; and that I will not
hereafter make any payment, loan or deposit in respect of the election,
except through my official agent appointed under the said Act. I further
say that I have not been guilty of any corrupt practice in respect of my
election.

Sworn before me, this }
day of , 19..... }

Clerk of the Legislative Assembly

R.S.O. 1950, c. 202, Form 1.

FORM 2

(Section 58)

OATH OF WITNESSES

The evidence you shall give to this Commission touching the subject
of the present inquiry shall be the truth, the whole truth, and nothing
but the truth. So help you God.

R.S.O. 1950, c. 202, Form 2.

CHAPTER 209

The Legislative Assembly Retirement Allowances Act

1. In this Act,

Interpre-
tation

- (a) "allowance" means an allowance under this Act;
- (b) "indemnity" has the same meaning as in *The Legislative Assembly Act*; R.S.O. 1960,
c. 208
- (c) "member" means a member of the Assembly;
- (d) "minister" means a member of the Executive Council, and includes for the purposes of this Act the Speaker, the Leader of the Opposition and any member who was formerly a member of the Executive Council, the Speaker or the Leader of the Opposition;
- (e) "salary" means,
 - (i) the annual salary paid to a minister under *The Executive Council Act*, or R.S.O. 1960,
c. 127
 - (ii) the additional indemnity of the Speaker or the Leader of the Opposition authorized by *The Legislative Assembly Act*;
- (f) "service" means service as a member or as a minister, as the case may be, for which indemnity or salary was paid;
- (g) "Treasurer" means the Treasurer of Ontario. 1960,
c. 58, s. 1.

2. This Act shall be administered by the Treasurer. 1960, Adminis-
tration of
Act
c. 58, s. 2.

3. This Act applies to every member and to every minister. Application
of Act
1960, c. 58, s. 3.

4.—(1) There shall be deducted from the indemnity payable to a member an amount equal to 6 per cent thereof as such member's contribution under this Act. Current con-
tributions,
members

Maximum
con-
tributions
members

(2) Notwithstanding anything in subsection 1, contributions under this section shall not be deducted from the indemnity of a member after the total amount contributed by him is sufficient to provide an allowance equal to the amount of his indemnity. 1960, c. 58, s. 4.

Previous
service,
members'
election

5.—(1) A member who was not a member on the 1st day of April, 1960, may, within ninety days from the day upon which the Assembly first is in session after he becomes a member, elect in writing to contribute under this Act in respect of any part of any period of service as a member previous to the 1st day of April, 1960, but the period or periods shall be chosen retrogressively from the date of such election. 1960, c. 58, s. 5 (1), *amended*.

Establish-
ment of
credit,
members

(2) A member who elects to contribute in respect of a period of previous service as a member shall at the time of such election pay to the Treasurer an amount equal to the amount that he would have been required to contribute as a member had the Act been in force and applicable to him during such period, and thereupon he is entitled to credit for the payment so made.

Instalment
payments,
members

(3) Notwithstanding subsection 2, any amount required to be paid under that subsection may be paid in equal instalments over a period not exceeding three years commencing at the time of his election under that subsection.

Idem

(4) Where a member who is contributing under subsection 3 ceases to be a member or dies before completing his payments thereunder, he or his legal representative, as the case may be, may pay forthwith the balance outstanding. 1960, c. 58, s. 5 (2-4).

Eligibility
for allow-
ance,
members

6.—(1) A member who has contributed in respect of ten or more years of service and who has attained the age of fifty-five years is entitled to an annual allowance during his lifetime upon his ceasing to be a member. 1960, c. 58 s. 6 (1), *part*.

Idem

(2) Where a person is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years, he may elect to take an allowance under subsection 3 at age fifty-five or an immediate allowance of a reduced amount under subsection 4. 1960, c. 58, s. 6 (1), *part*.

Calculation
of allowance
at age 55,
members

(3) The amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his contributions as a member, but the amount of his allowance shall not exceed the amount of his indemnity.

(4) Where a person who is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years elects to take an immediate allowance of a reduced amount, the amount of his allowance shall be calculated under subsection 3 and then shall be reduced actuarially in accordance with the prescribed tables. 1960, c. 58, s. 6 (2, 3), *revised*. Calculation of allowance under age 55, members

7.—(1) An allowance under section 6 shall be suspended while the person entitled thereto, Suspension of allowance, members

(a) is a member of the Assembly, the House of Commons of Canada or the Senate of Canada;

(b) is employed in the public service of Ontario;

(c) holds an office of any kind the remuneration for which is paid out of the Consolidated Revenue Fund; or

(d) is an officer, member or employee of a Crown agency as defined in *The Crown Agency Act*. R.S.O. 1960, c. 81

(2) Where a person whose allowance has been suspended under clause a of subsection 1 again ceases to be a member, his allowance shall be recalculated under section 6 having regard to any additional service as a member performed while his allowance was suspended. 1960, c. 58, s. 7. Recalculation of allowance, members

8.—(1) There shall be deducted from the salary payable to a minister an amount equal to 6 per cent thereof as such minister's contribution under this Act. Current contributions, ministers

(2) Notwithstanding anything in subsection 1, contributions under this section shall not be deducted from the salary of a minister after the total amount contributed by him is sufficient to provide an allowance equal to one-half the annual salary of a minister having charge of a department. 1960, c. 58, s. 8. Maximum contributions, ministers

9.—(1) A minister who was not a minister on the 1st day of April, 1960, may, within ninety days from the day upon which he becomes a minister, elect in writing to contribute under this Act in respect of any part of any period of service as a minister previous to the 1st day of April, 1960, but the period or periods shall be chosen retrogressively from the date of such election. 1960, c. 58, s. 9 (1), *amended*. Previous service, minister's election

(2) A minister who elects to contribute in respect of a period of previous service as a minister shall at the time of such election pay to the Treasurer an amount equal to the Establishment of credit, ministers

amount that he would have been required to contribute as a minister had the Act been in force and applicable to him during such period, and thereupon he is entitled to credit for the payment so made.

Instalment
payments,
ministers

(3) Notwithstanding subsection 2, any amount required to be paid under that subsection may be paid in equal instalments over a period not exceeding three years commencing at the time of his election under that subsection.

Idem

(4) Where a minister who is contributing under subsection 3 ceases to be a member or dies before completing his payments thereunder, he or his legal representative, as the case may be, may pay forthwith the balance outstanding. 1960, c. 58, s. 9 (2-4).

Eligibility
for
allowance,
ministers

10.—(1) A minister who has contributed under section 8 or 9 and who has contributed in respect of ten or more years of service as a member and who has attained the age of fifty-five years is entitled to an annual allowance during his lifetime upon his ceasing to be a minister and a member. 1960, c. 58, s. 10 (1), *part*.

Idem

(2) Where a person is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years, he may elect to take an allowance under subsection 3 at age fifty-five or an immediate allowance of a reduced amount under subsection 4. 1960, c. 58, s. 10 (1), *part*.

Calculation
of allowance
at age 55,
ministers

(3) The amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his contributions as a minister, but the amount of his allowance shall not exceed one-half of the salary of a minister having charge of a department.

Calculation
of allowance
under age
55, ministers

(4) Where a person who is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years elects to take an immediate allowance of a reduced amount, the amount of his allowance shall be calculated under subsection 3 and then shall be reduced actuarially in accordance with the prescribed tables. 1960, c. 58, s. 10 (2, 3), *revised*.

Suspension
of
allowance,
ministers

11.—(1) An allowance under section 10 shall be suspended while the person entitled thereto,

- (a) is a member of the Assembly, the House of Commons of Canada or the Senate of Canada;
- (b) is employed in the public service of Ontario;
- (c) holds an office of any kind the remuneration for which is paid out of the Consolidated Revenue Fund; or

(d) is an officer, member or employee of a Crown agency as defined in *The Crown Agency Act*. R.S.O. 1960, c. 81

(2) Where a person whose allowance has been suspended under clause a of subsection 1 again ceases to be a member, his allowance shall be recalculated under section 10 having regard to any additional contributory service as a minister performed while his allowance was suspended. 1960, c. 58, s. 11. Recalculation of allowance, ministers

12.—(1) Where a person, Widow's allowance

- (a) who is in receipt of an allowance;
- (b) who is entitled to an allowance; or
- (c) whose allowance has been suspended under section 7 or 11,

dies leaving a widow, an allowance equal to one-half of the allowance that the person was receiving at the date of his death or to which he was entitled or which was suspended and recalculated under section 7 or 11, as the case may be, shall be paid to his widow during her lifetime or widowhood.

(2) Subsection 1 does not apply to the widow of a person if she married him after he attained the age of sixty-five years or after he was in receipt of an allowance. 1960, c. 58, s. 12. Exception

13.—(1) A person who makes contributions under this Act and who ceases to be a member before being eligible for an allowance is entitled to a refund of an amount equal to the amount of his contributions with interest thereon at the rate of 6 per cent per annum and, in the event of his death, his personal representative is entitled to the same refund. Refunds

(2) Where a person who is in receipt of an allowance dies and no person becomes entitled to an allowance under section 12, his personal representative is entitled to a refund equal to the amount of the difference between the amount of his contributions with interest thereon at the rate of 6 per cent per annum up to the time he commenced to receive the allowance and the amount of the allowance paid to him up to the time of his death. 1960, c. 58, s. 13. Idem

14. A person who has received a refund under subsection 1 of section 13 and who again becomes eligible to contribute under this Act may pay to the Treasurer the amount of the refund with interest at the rate of 6 per cent per annum and thereupon he is entitled to credit for the amount so paid. 1960, c. 58, s. 14. Reinstatement after refund

Payments
into and
out of
Consolidat-
ed Revenue
Fund

15. All contributions and interest received under this Act shall be credited to the Consolidated Revenue Fund and all payments of allowances and refunds and interest are a charge against the Consolidated Revenue Fund. 1960, c. 58, s. 15.

Special
account

16.—(1) The Treasurer shall establish in the Consolidated Revenue Fund an account to be known as the Legislative Assembly Retirement Allowances Account in which shall be entered all receipts and disbursements under this Act.

Annual
payments
into special
account

(2) The Treasurer shall pay annually from the Consolidated Revenue Fund into the Legislative Assembly Retirement Allowances Account such sum as the Lieutenant Governor in Council directs to assist in defraying the cost of allowances under this Act. 1960, c. 58, s. 16.

Application
of
R.S.O. 1960,
c. 332

17. Section 37 of *The Public Service Superannuation Act* applies *mutatis mutandis* to any moneys payable to any person under this Act. 1960, c. 58, s. 17.

Recipients
of
allowances,
etc., not
disqualified
R.S.O. 1960,
c. 208

18. Notwithstanding anything in *The Legislative Assembly Act* or any other Act, the application of this Act to a person does not render him ineligible as a member of the Assembly or disqualify him from sitting and voting therein. 1960, c. 58, s. 18.

Teachers'
rights not
affected
R.S.O. 1960,
c. 392

19. Notwithstanding subclause xii of clause *d* of section 1 of *The Teachers' Superannuation Act*, this Act does not affect the rights of a member under *The Teachers' Superannuation Act*. 1960, c. 58, s. 19.

Regulations

20. The Lieutenant Governor in Council may make regulations,

- (a) respecting the manner and times of payment of instalments under subsection 3 of section 5 and subsection 3 of section 9;
 - (b) prescribing tables for the purposes of subsection 4 of section 6 and subsection 4 of section 10;
 - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 58, s. 20.
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CHAPTER 210

The Legitimation Act

1. If the parents of a child heretofore or hereafter born out of lawful wedlock have heretofore intermarried or hereafter intermarry, the child shall for all purposes be deemed to be and to have been legitimate from the time of birth. R.S.O. 1950, c. 203, s. 1. Subsequent marriage of parents

2. Notwithstanding section 1, a child born while its father was married to another woman or while its mother was married to another man shall not inherit in competition with the lawful children of either parent. R.S.O. 1950, c. 203, s. 2. Children born out of wedlock to married persons

3. The parents and brothers and sisters of a child legitimated by this Act inherit upon his death as though he had been born legitimate. R.S.O. 1950, c. 203, s. 3. Inheritance from legitimated child

4. Nothing in this Act affects any right, title or interest in or to property if such right, title or interest has been vested in any person, Rights of property not prejudiced

(a) before the 1st day of July, 1921; or

(b) in the case of marriage after the 1st day of July, 1921, before such marriage. R.S.O. 1950, c. 203, s. 4.

5. Where,

(a) a marriage has taken place in the *bona fide* belief of the death of a former spouse and under such circumstances that the crime of bigamy has not been committed; or Children of re-marriage while former spouse living

(b) pursuant to section 11 of *The Marriage Act* a judge has made an order of presumption of death and the spouse of the person who has been presumed to be dead again marries, R.S.O. 1960, c. 228

if the person who is believed to be dead or in respect of whom an order of presumption of death has been made, as the case may be, was alive when such marriage was solemnized, unless the marriage is otherwise invalid, the issue conceived before knowledge of the fact that the former spouse is living,

- (c) shall for all purposes be deemed to be and to have been the legitimate children of the persons entering into such marriage from the time of birth; and
- (d) shall have the same rights, benefits and obligations under any law or statute in force in Ontario as they would have had if the person believed to be dead or in respect of whom the order of presumption of death was made, had in fact died before such marriage was solemnized. R.S.O. 1950, c. 203, s. 5.

Intestacy of
mother of
illegitimate
child

6.—(1) Where the mother of an illegitimate child, such child not being legitimated by this Act, dies intestate as respects all or any of her real or personal property and does not leave any legitimate issue surviving her, the illegitimate child, or, if he is dead, his issue, is entitled to take any interest therein to which he or such issue would have been entitled if he had been born legitimate.

Intestacy of
illegitimate
child

(2) Where an illegitimate child, not being legitimated by this Act, dies intestate in respect of all or any of his real or personal property, his mother, if surviving, is entitled to take any interest therein to which she would have been entitled if the child had been born legitimate and she had been the only surviving parent. R.S.O. 1950, c. 203, s. 6, *amended*.

CHAPTER 211

The Libel and Slander Act

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

(a) “broadcasting” means the dissemination of any form of radioelectric communication, including radiotelegraph, radiotelephone, the wireless transmission of writing, signs, signals, pictures and sounds of all kinds, by means of Hertzian waves intended to be received by the public either directly or through the medium of relay stations, and “broadcast” has a corresponding meaning;

(b) “newspaper” means a paper containing public news, intelligence, or occurrences, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two of such papers, parts or numbers, and includes a paper printed in order to be made public weekly or more often or at intervals not exceeding thirty-one days and containing only, or principally, advertisements.

(2) Any reference to words in this Act shall be construed as including a reference to pictures, visual images, gestures and other methods of signifying meaning. 1958, c. 51, s. 1.

Meaning of
words
extended

LIBEL

2. Defamatory words in a newspaper or in a broadcast shall be deemed to be published and to constitute libel. 1958, c. 51, s. 2.

What con-
stitutes
libel

3.—(1) A fair and accurate report in a newspaper or in a broadcast of any of the following proceedings that are open to the public is privileged, unless it is proved that the publication thereof was made maliciously:

Privileged
reports

1. The proceedings of any legislative body or any part or committee thereof in the British Commonwealth

that may exercise any sovereign power acquired by delegation or otherwise.

2. The proceedings of any administrative body that is constituted by any public authority in Canada.
3. The proceedings of any commission of inquiry that is constituted by any public authority in the Commonwealth.
4. The proceedings of any organization whose members, in whole or in part, represent any public authority in Canada.

Idem

(2) A fair and accurate report in a newspaper or in a broadcast of the proceedings of a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance of discussion of any matter of public concern, whether the admission thereto is general or restricted, is privileged, unless it is proved that the publication thereof was made maliciously.

Publicity
releases

(3) The whole or a part or a fair and accurate synopsis in a newspaper or in a broadcast of any report, bulletin, notice or other document issued for the information of the public by or on behalf of any body, commission or organization mentioned in subsection 1 or any meeting mentioned in subsection 2 is privileged, unless it is proved that the publication thereof was made maliciously.

Decisions,
etc., of
certain
types of
association

(4) A fair and accurate report in a newspaper or in a broadcast of the findings or decision of any of the following associations, or any part or committee thereof, being a finding or decision relating to a person who is a member of or is subject, by virtue of any contract, to the control of the association, is privileged, unless it is proved that the publication thereof was made maliciously:

1. An association formed in Canada for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct of any persons subject to such control or adjudication.
2. An association formed in Canada for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, or of the persons carrying on or engaged in any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate upon matters connected with the trade, business, industry or profession.

3. An association formed in Canada for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercising of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or pastime.

(5) Nothing in this section authorizes any blasphemous, ^{Improper matter} seditious or indecent matter in a newspaper or in a broadcast.

(6) Nothing in this section limits or abridges any privilege ^{Saving} now by law existing or protects the publication of any matter not of public concern or the publication of which is not for the public benefit.

(7) The protection afforded by this section is not available ^{When defendant refuses to publish explanation} as a defence in an action for libel if the plaintiff shows that the defendant refused to insert in the newspaper or to broadcast, as the case may be, a reasonable statement of explanation or contradiction by or on behalf of the plaintiff. 1958, c. 51, s. 3.

4.—(1) A fair and accurate report without comment in a ^{Report of proceedings in court} newspaper or in a broadcast of proceedings publicly heard before a court of justice, if published in the newspaper or broadcast contemporaneously with such proceedings, is absolutely privileged unless the defendant has refused or neglected to insert in the newspaper in which the report complained of appeared or to broadcast, as the case may be, a reasonable statement of explanation or contradiction by or on behalf of the plaintiff.

(2) Nothing in this section authorizes any blasphemous, ^{Improper matter} seditious or indecent matter in a newspaper or in a broadcast. 1958, c. 51, s. 4.

5.—(1) No action for libel in a newspaper or in a broadcast ^{Notice of action} lies unless the plaintiff has, within six weeks after the alleged libel has come to his knowledge, given to the defendant notice in writing, specifying the matter complained of, which shall be served in the same manner as a statement of claim or by delivering it to a grown-up person at the chief office of the defendant.

(2) The plaintiff shall recover only actual damages if it ^{Where plaintiff to recover only actual damages} appears on the trial,

- (a) that the alleged libel was published in good faith;
- (b) that the alleged libel did not involve a criminal charge;

- (c) that the publication of the alleged libel took place in mistake or misapprehension of the facts; and
- (d) that a full and fair retraction of any matter therein alleged to be erroneous,
 - (i) was published either in the next regular issue of the newspaper or in any regular issue thereof published within three days after the receipt of the notice mentioned in subsection 1 and was so published in as conspicuous a place and type as was the alleged libel, or
 - (ii) was broadcast either within a reasonable time or within three days after the receipt of the notice mentioned in subsection 1 and was so broadcast as conspicuously as was the alleged libel.

Case of
candidate
for public
office

(3) This section does not apply to the case of a libel against any candidate for public office unless the retraction of the charge is made in a conspicuous manner at least five days before the election. 1958, c. 51, s. 5.

Limitation
of action

6. An action for a libel in a newspaper or in a broadcast shall be commenced within three months after the libel has come to the knowledge of the person defamed, but, where such an action is brought within that period, the action may include a claim for any other libel against the plaintiff by the defendant in the same newspaper or the same broadcasting station within a period of one year before the commencement of the action. 1958, c. 51, s. 6.

Application
of ss. 5 (1), 6

7. Subsection 1 of section 5 and section 6 apply only to newspapers printed and published in Ontario and to broadcasts from a station in Ontario. 1958, c. 51, s. 7.

Publication
of name of
publisher,
etc.

8.—(1) No defendant in an action for a libel in a newspaper is entitled to the benefit of sections 5 and 6 unless the names of the proprietor and publisher and the address of publication are stated either at the head of the editorials or on the front page of the newspaper. 1958, c. 51, s. 8 (1).

Copy of
newspaper
to be
prima facie
evidence

(2) The production of a printed copy of a newspaper is admissible in evidence as *prima facie* proof of the publication of the printed copy and of the truth of the statements mentioned in subsection 1. 1958, c. 51, s. 8 (2), *revised*.

Where
ss. 5, 6 not
to apply

(3) Where a person, by registered letter containing his address and addressed to a broadcasting station, alleges that a libel against him has been broadcast from the station and requests the name and address of the owner or operator of the station or the names and addresses of the owner and the

operator of the station, sections 5 and 6 do not apply with respect to an action by such person against such owner or operator for the alleged libel unless the person whose name and address are so requested delivers the requested information to the first-mentioned person, or mails it by registered letter addressed to him, within ten days from the date on which the first-mentioned registered letter is received at the broadcasting station. 1958, c. 51, s. 8 (3).

9.—(1) In an action for a libel in a newspaper, the defendant may plead in mitigation of damages that the libel was inserted therein without actual malice and without gross negligence and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper a full apology for the libel or, if the newspaper in which the libel appeared is one ordinarily published at intervals exceeding one week, that he offered to publish the apology in any newspaper to be selected by the plaintiff. Newspaper libel, plea in mitigation of damages

(2) In an action for a libel in a broadcast, the defendant may plead in mitigation of damages that the libel was broadcast without actual malice and without gross negligence and that before the commencement of the action, or at the earliest opportunity afterwards, he broadcast a full apology for the libel. 1958, c. 51, s. 9. Broadcast libel, plea in mitigation of damages

10. In an action for a libel in a newspaper or in a broadcast, the defendant may prove in mitigation of damages that the plaintiff has already brought action for, or has recovered damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as that for which such action is brought. 1958, c. 51, s. 10. Evidence in mitigation of damages

11. A defendant may pay into court with his defence a sum of money by way of amends for the injury sustained by the publication of any libel to which sections 5 and 9 apply, and, except so far as regards the additional facts hereinbefore required to be pleaded by a defendant, such payment has the same effect as payment into court in other cases. 1958, c. 51, s. 11. Payment into court

12.—(1) The court, upon an application by two or more defendants in any two or more actions for the same or substantially the same libel, or for a libel or libels the same or substantially the same in different newspapers or broadcasts, brought by the same person or persons, may make an order for the consolidation of such actions so that they will be tried together, and, after such order has been made and before the trial of such actions, the defendants in any new actions instituted by the same person or persons in respect of any Consolidation of different actions for same libel

such libel or libels are also entitled to be joined in the common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

Assessment
of damages
and apportionment of
damages
and costs

(2) In a consolidated action under this section, the jury shall assess the whole amount of the damages, if any, in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately, and, if the jury finds a verdict against the defendant or defendants in more than one of the actions so consolidated, the jury shall apportion the amount of the damages between and against the last-mentioned defendants, and the judge at the trial, in the event of the plaintiff being awarded the costs of the action, shall thereupon make such order as he deems just for the apportionment of the costs between and against such defendants.

Application

(3) This section does not apply where the libel or libels were contained in an advertisement. 1958, c. 51, s. 12.

Security
for costs

13.—(1) In an action for a libel in a newspaper or in a broadcast, the defendant may, at any time after the delivery of the statement of claim or the expiry of the time within which it should have been delivered, apply to the court for security for costs, upon notice and an affidavit by the defendant or his agent showing the nature of the action and of the defence, that the plaintiff is not possessed of property sufficient to answer the costs of the action in case judgment is given in favour of the defendant, that the defendant has a good defence on the merits and that the statements complained of were made in good faith, or that the grounds of action are trivial or frivolous, and the court may make an order for the plaintiff to give security for costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario, and the order is a stay of proceedings until the security is given.

Where libel
involves a
criminal
charge

(2) Where the alleged libel involves a criminal charge, the defendant is not entitled to security for costs under this section unless he satisfies the court that the action is trivial or frivolous, or that the circumstances which under section 5 entitle the defendant at the trial to have the damages restricted to actual damages appear to exist, except the circumstances that the matter complained of involves a criminal charge.

Examina-
tion of
parties

(3) For the purpose of this section, the plaintiff or the defendant or their agents may be examined upon oath at any time after the delivery of the statement of claim.

(4) An order made under this section by a judge of the Supreme Court is final and is not subject to appeal, but, where the order is made by a local judge, an appeal therefrom lies to a judge of the Supreme Court sitting in chambers, whose order is final and is not subject to appeal. 1958, c. 51, s. 13.

When order
of judge
respecting
security
final

14. An action for a libel in a newspaper or in a broadcast shall be tried in the county where the chief office of the newspaper or broadcasting station is, or in the county where the plaintiff resides at the time the action is brought; but, upon the application of either party, the court may direct the action to be tried, or the damages to be assessed, in any other county if it appears to be in the interests of justice or that it will promote a fair trial, and may impose such terms as to the payment of witness fees and otherwise as seem proper. 1958, c. 51, s. 14.

Place of
trial

15. On the trial of an action for libel, the jury may give a general verdict upon the whole matter in issue in the action and shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged libel and of the sense ascribed to it in the action, but the court shall, according to its discretion, give its opinion and directions to the jury on the matter in issue as in other cases, and the jury may on such issue find a special verdict, if they think fit so to do, and the proceedings after verdict, whether general or special, shall be the same as in other cases. 1958, c. 51, s. 15.

Verdicts

16. An agreement for indemnifying any person against civil liability for libel is not unlawful. 1958, c. 51, s. 16.

Agreements
for indem-
nity

SLANDER

17. In an action for slander for defamatory words spoken of a woman imputing unchastity or adultery, it is not necessary to allege in the plaintiff's statement of claim or to prove that special damage resulted to the plaintiff from the utterance of such words, and the plaintiff may recover damages without averment or proof of special damage. 1958, c. 51, s. 17.

Slander of
women

18. In an action for slander for words calculated to disparage the plaintiff in any office, profession, calling, trade or business held or carried on by him at the time of the publication thereof, it is not necessary to allege or prove special damage, whether or not the words are spoken of the plaintiff in the way of his office, profession, calling, trade or business, and the plaintiff may recover damages without averment or proof of special damage. 1958, c. 51, s. 18.

Slander
affecting
official
professional
or business
reputation

Slander of
title, etc.

19. In an action for slander of title, slander of goods or other malicious falsehood, it is not necessary to allege or prove special damage,

- (a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or
- (b) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication,

and the plaintiff may recover damages without averment or proof of special damage. 1958, c. 51, s. 19.

Security
for costs

20.—(1) In an action for slander, the defendant may, at any time after the delivery of the statement of claim or the expiry of the time within which it should have been delivered, apply to the court for security for costs, upon notice and an affidavit by the defendant or his agent showing the nature of the action and of the defence, that the plaintiff is not possessed of property sufficient to answer the costs of the action in case judgment is given in favour of the defendant, that the defendant has a good defence on the merits, or that the grounds of action are trivial or frivolous, and the court may make an order for the plaintiff to give security for costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario, and the order is a stay of proceedings until the security is given.

Examina-
tion of
parties

(2) For the purpose of this section, the plaintiff or the defendant may be examined upon oath at any time after the delivery of the statement of claim. 1958, c. 51, s. 20.

LIBEL AND SLANDER

Averments

21. In an action for libel or slander, the plaintiff may aver that the words complained of were used in a defamatory sense, specifying the defamatory sense without any prefatory averment to show how the words were used in that sense, and the averment shall be put in issue by the denial of the alleged libel or slander, and, where the words set forth, with or without the alleged meaning, show a cause of action, the statement of claim is sufficient. 1958, c. 51, s. 21.

Apologies

22. In an action for libel or slander where the defendant has pleaded a denial of the alleged libel or slander only, or has suffered judgment by default, or judgment has been

given against him on motion for judgment on the pleadings, he may give in evidence, in mitigation of damages, that he made or offered a written apology to the plaintiff for such libel or slander before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering such apology, that he did so as soon afterwards as he had an opportunity. 1958, c. 51, s. 22.

23. In an action for libel or slander for words containing ^{Justification} two or more distinct charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges. 1958, c. 51, s. 23.

24. In an action for libel or slander for words consisting ^{Fair comment} partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved. 1958, c. 51, s. 24.

CHAPTER 212

The Lieutenant Governor Act

1. In matters within the jurisdiction of the Legislature, ^{Powers vested in Lieutenant Governor} all powers, authorities and functions that, in respect of like matters, were vested in or exercisable by the governors or lieutenant governors of the several provinces now forming part of Canada or any of the provinces, under commissions, instructions or otherwise, at or before the passing of *The British North America Act, 1867*, are, so far as the Legislature ^{1867, c. 3 (Imp.)} has power thus to enact, vested in and exercisable by the Lieutenant Governor or Administrator for the time being of Ontario, in the name of Her Majesty or otherwise as the case requires, subject always to the Royal Prerogative as heretofore. R.S.O. 1950, c. 205, s. 1.

2. Section 1 shall be deemed to include the power of com- ^{Power to remit sentences} muting and remitting sentences for offences against the laws of Ontario or offences over which the legislative authority of Ontario extends. R.S.O. 1950, c. 205, s. 2.

3. The Lieutenant Governor for the time being is a cor- ^{Lieutenant Governor a corporation sole} poration sole, and all bonds, recognizances and other instruments by law required to be taken to him in his public capacity shall be taken to him by his name of office, and may be sued for and recovered by him by his name of office, and the same shall not in any case go to or vest in the personal representatives of the Lieutenant Governor during whose government the same were so taken. R.S.O. 1950, c. 205, s. 3.

4. The Lieutenant Governor may, with the advice and ^{Power to appoint deputies for certain purposes} consent of the Executive Council, from time to time appoint any person or persons, jointly or severally, to be his deputy or deputies for Ontario or any part or parts thereof, for the purpose of executing marriage licences, money warrants and commissions under any Act of the Legislature. R.S.O. 1950, c. 205, s. 4.

CHAPTER 213

The Lightning Rods Act**1.** In this Act,Interpre-
tation

- (a) "Fire Marshal" means the Fire Marshal of Ontario;
- (b) "inspector" means an inspector appointed under this Act;
- (c) "lightning rods" means the points, cables, groundings and other apparatus installed or to be installed to protect buildings and structures from damage by lightning;
- (d) "regulations" means the regulations made under this Act;
- (e) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 206, s. 1.

2. No person shall offer for sale, sell or install lightning rods unless licensed to do so by the Fire Marshal under this Act. R.S.O. 1950, c. 206, s. 2.

Sellers, etc.,
of lightning
rods to be
licensed**3.—(1)** Upon receipt of,Power to
license

- (a) an application in the prescribed form for a licence to offer for sale, sell and install lightning rods, containing a sworn statement of the amount received from the sale of lightning rods in Ontario during the previous licence year and a statement of the specifications of the lightning rods to be offered for sale, sold and installed during the licence year;
- (b) a licence fee computed at four-fifths of 1 per cent of the amount received from the sale of lightning rods in Ontario during the preceding licence year, and in addition the sum of \$50, payable to the Treasurer; and
- (c) samples of the lightning rods to be offered for sale, sold and installed during the licence year, or such parts thereof as may be required by the Fire Marshal,

the Fire Marshal, if he is satisfied that the applicant is entitled

to public confidence, may issue to the applicant a licence to offer for sale, sell and install lightning rods, and the licence shall remain in force until the 31st day of December next after the date of issue unless it is sooner suspended or revoked.

What may
be sold, etc.

(2) No licensee under this section shall offer for sale, sell or install lightning rods other than those in respect of which the licence was issued. R.S.O. 1950, c. 206, s. 3.

Agents

4.—(1) Upon receipt of,

- (a) an application on the prescribed form from a licensee under section 3 for a licence for the person named therein, who shall be a resident of Ontario, to act as an agent of such licensee, containing a statement in writing from the person named therein giving the address of his place of residence and place of business, his experience in connection with lightning rods, and his financial standing with any licensee under section 3 for whom he has acted as agent; and

- (b) a licence fee of \$3 payable to the Treasurer,

the Fire Marshal, if he is satisfied that the person named is entitled to public confidence, may issue a licence to him to act as agent for the licensee, and the licence remains in force until the 31st day of December next after the date of issue unless it is sooner suspended or revoked.

What may
be sold, etc.
by agents

(2) No licensed agent shall offer for sale, sell or install lightning rods other than those in respect of which his principal is licensed. R.S.O. 1950, c. 206, s. 4.

Power to
suspend
and revoke
licences

5. The Fire Marshal may, after a hearing, suspend or revoke a licence for non-compliance with this Act or the regulations. R.S.O. 1950, c. 206, s. 5.

Notice of
revocation,
etc., of
licence

6.—(1) Where the Fire Marshal refuses to issue a licence under this Act or where the Fire Marshal suspends or revokes a licence issued under this Act, the Fire Marshal shall send notice of the refusal, suspension or revocation to the applicant or licensee, as the case may be, by registered mail addressed to him at his address as shown in the records of the Fire Marshal's office.

Appeal

(2) If the applicant or licensee, as the case may be, is dissatisfied with the decision of the Fire Marshal, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he resides for an order reversing the decision of the Fire Marshal.

(3) On an application under subsection 2, the judge shall ^{Hearing} hold a hearing upon such notice as he deems proper and, after hearing the applicant, the Fire Marshal and any other evidence either of them produces, he may,

- (a) where the Fire Marshal refused to issue a licence, dismiss the application if he is not satisfied that the applicant is entitled to public confidence or order the Fire Marshal to issue the licence if he is satisfied that the applicant is entitled to public confidence; or
- (b) where the Fire Marshal suspended or revoked a licence, dismiss the application if he is not satisfied that the applicant has complied with the Act and the regulations or order the Fire Marshal to reinstate the licence if he is satisfied that the applicant has complied with the Act and the regulations. 1959, c. 52, s. 1.

7. Every person offering for sale, selling or installing light- ^{Duty to exhibit license} rods shall exhibit his licence,

- (a) to every person to whom he offers to sell or sells, or for whom he installs lightning rods; and
- (b) upon demand to any mayor, reeve, fire chief, district deputy fire marshal, assistant to the Fire Marshal, fire prevention officer or police officer. R.S.O. 1950, c. 206, s. 6.

8.—(1) Every person who installs lightning rods on any ^{Certificate of installation} building or structure shall, upon completion of the work, make a certificate of installation in triplicate in the prescribed form showing,

- (a) his name, address and licence number and where he is an agent, the name, address and licence number of his principal;
- (b) the name and address of the owner of the building or structure;
- (c) the location of the building or structure;
- (d) a diagram of the building or structure marking the location of each grounding;
- (e) the nature and condition of the soil at each grounding;
- (f) the method of each grounding,

and certifying that the facts shown are true and that the installation has been made in accordance with this Act and the regulations, and, after signing, he shall present the certificate

for the signature of the owner or his agent to confirm that the nature and condition of the soil and the method of each grounding are as described.

Disposal of
copies

(2) Every person who makes a certificate of installation shall give a copy thereof to the owner or his agent and forward a copy to the Fire Marshal. R.S.O. 1950, c. 206, s. 7.

Offence

9. Every person who fails to comply with this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 or to imprisonment for a term of not more than six months for each offence, or to both fine and imprisonment. R.S.O. 1950, c. 206, s. 8.

Non-
conforming
installations

10.—(1) Where upon inspection an installation of lightning rods is found not to conform with this Act and the regulations, the licensee under section 3 who made the installation shall within sixty days from the receipt of the inspector's report or such further period as is allowed by the Fire Marshal, make such alterations or additions thereto as the inspector considers necessary to make the installation conform with this Act and the regulations, but this subsection does not apply where the installation is found not to so conform by reason of alterations or additions made thereto or to the building or structure other than by the licensee.

Conforming
installations

(2) Where upon inspection an installation of lightning rods is found to conform with this Act and the regulations, the inspector may attach a seal indicating that the installation is at the time of the inspection in conformity with this Act and the regulations. R.S.O. 1950, c. 206, s. 9.

Right to
recover for
loss

11.—(1) Where lightning rods that were installed on a building or structure by a licenced person have been installed for fewer than ten years and the owner thereof has suffered loss by reason of damage by lightning to the lightning rods, building or structure, and where no alterations or additions or repairs that affect the proper operation of the lightning rods have been made to the lightning rods or to the building or structure by persons other than the licensee, the owner may bring an action against the licensee for recovery of the amount of loss, not exceeding the total cost of the installation.

Notice of
claim,
commence-
ment of
action

(2) Notice of any such claim shall be given to the licensee within thirty days after the loss was suffered, and the action shall be commenced not fewer than sixty days and not more than one year after the loss was suffered. R.S.O. 1950, c. 206, s. 10.

Application
of license
fees

12. Licence fees paid to the Treasurer under this Act shall be added to the special fund for the maintenance of the office of the Fire Marshal. R.S.O. 1950, c. 206, s. 11.

13. The Lieutenant Governor in Council may appoint one ^{Inspectors} or more inspectors to enforce this Act and the regulations.
R.S.O. 1950, c. 206, s. 12.

14. This Act does not apply to the installation of lightning ^{Application of Act} rods on a building or structure by the owner or occupant of the building or structure where he himself does the work, or the work is done by his employee or employees under his direction. R.S.O. 1950, c. 206, s. 13.

15. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing minimum standards for lightning rods;
 - (b) governing the manner of installing lightning rods;
 - (c) designating buildings or structures or classes of buildings or structures to which this Act shall not apply;
 - (d) prescribing the form of,
 - (i) the application for a licence to offer for sale, sell and install lightning rods,
 - (ii) the licence to offer for sale, sell and install lightning rods,
 - (iii) the application for a licence to act as an agent to offer for sale, sell and install lightning rods,
 - (iv) the licence to act as agent to offer for sale, sell and install lightning rods,
 - (v) the certificate of installation of lightning rods,
 - (vi) the report of the inspector mentioned in subsection 1 of section 10,
 - (vii) the seal mentioned in subsection 2 of section 10.
- R.S.O. 1950, c. 206, s. 14.
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CHAPTER 214

The Limitations Act

1. In this Act,

Interpre-
tation

- (a) "action" includes an information on behalf of the Crown and any civil proceeding;
- (b) "assurance" means a deed or instrument, other than a will, by which land may be conveyed or transferred;
- (c) "land" includes messuages and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties or any of them, any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interest or any of them, are in possession, reversion, remainder or contingency;
- (d) "rent" includes all annuities and periodical sums of money charged upon or payable out of land. R.S.O. 1950, c. 207, s. 1.

PART I

REAL PROPERTY

2. Nothing in this Act interferes with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R.S.O. 1950, c. 207, s. 2.

Refusing
relief
because of
acquiescence
or otherwise

3.—(1) No entry, distress, or action shall be made or brought on behalf of Her Majesty against any person for the recovery of or respecting any land or rent, or of land or for or concerning any revenues, rents, issues or profits, but within sixty years next after the right to make such entry or distress or to bring such action has first accrued to Her Majesty.

Limitation
where the
Crown
interested

Application
of certain
sections to
Crown

(2) Subsections 1 to 3, 5 to 7 and 9 to 12 of section 5 and sections 6, 8 to 11 and 13 to 15 apply to rights of entry, distress or action asserted by or on behalf of Her Majesty. R.S.O. 1950, c. 207, s. 3.

Limitation
where the
subject
interested

4. No person shall make an entry or distress, or bring an action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims, or if the right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing it. R.S.O. 1950, c. 207, s. 4.

When right
accrues on
dispossession

5.—(1) Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in receipt of the profits of the land, or in receipt of the rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, the right to make an entry or distress or bring an action to recover the land or rent shall be deemed to have first accrued at the time of the dispossession or discontinuance of possession, or at the last time at which any such profits or rent were so received.

On death

(2) Where the person claiming such land or rent claims the estate or interest of a deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, the right shall be deemed to have first accrued at the time of such death.

On alienation

(3) Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by an assurance to him or some person through whom he claims, by a person being, in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under the assurance has been in possession or receipt, the right shall be deemed to have first accrued at the time at which the person so claiming or the person, through whom he claims, became entitled to such possession or receipt by virtue of the assurance.

As to land
not cultivated
or improved

(4) In the case of land granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some part thereof, and of which some other person not claiming to hold under such grantee has been

in possession, such possession having been taken while the land was in a state of nature, then unless it is shown that the grantee or person claiming under him while entitled to the land had knowledge of it being in the actual possession of such other person, the lapse of ten years does not bar the right of the grantee or any person claiming under him to bring an action for the recovery of the land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained, but no action shall be brought or entry made after twenty years from the time such possession was taken.

(5) Where a person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land or rent in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to the land or rent, subject to the lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of the lease, shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person so wrongfully claiming, and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled.

Where rent reserved by lease in writing has been wrongfully received

(6) Where a person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover the land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received, whichever last happened.

Where tenancy from year to year

(7) Where a person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover the land or rent, shall be deemed to have first accrued either at the determination of the tenancy, or at the expiration of one year next after the commencement of the tenancy, at which time the tenancy shall be deemed to have determined.

In the case of a tenant at will

Case of
mortgagor
or *cestui que*
trust

(8) No mortgagor or *cestui que trust* shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of subsection 7.

In case of
forfeiture or
breach of
condition

(9) Where the person claiming such land or rent, or the person through whom he claims, has become entitled by reason of any forfeiture or breach of condition, such right shall be deemed to have first accrued when the forfeiture was incurred or the condition broken.

Where
advantage of
forfeiture is
not taken
by remain-
der man

(10) Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover the land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when it became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

In case of
future
estates

(11) Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of the land, or the receipt of the rent, in respect of such estate or interest, such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

Further
provision for
cases of
future
estates

(12) A right to make an entry or distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which it became an estate or interest in possession, by the determination of any estate or estates in respect of which the land has been held or the profits thereof or the rent have been received, notwithstanding that the person claiming the land or rent, or some person through whom he claims, has, at any time before to the creation of the estate or estates that have determined, been in the possession or receipt of the profits of the land, or in receipt of the rent.
R.S.O. 1950, c. 207, s. 5.

Limitation
in case of
future
estates when
person
entitled
to the parti-
cular estate
out of
possession
etc.

6.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of the land, or in receipt of the rent, at the time when his interest determined, no such entry or distress shall be made and no such action shall be brought by any person becoming entitled in possession to a future estate or interest but within ten years next after the time when the right to make an entry or distress,

or to bring an action for the recovery of the land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

(2) If the right of any such person to make such entry or distress, or to bring any such action, has been barred, no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress or to bring an action for the recovery of the land or rent, first accrued to the owner of the particular estate whose interest has so determined, shall make any entry or distress, or bring any action, to recover the land or rent.

The case of bar of future estate and of a subsequent interest created after right of entry, etc., accrued to owner of particular estate

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period that is applicable in such case, and such person has, at any time during such period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or by any person claiming through him, to recover the land or rent in respect of such other estate, interest, right or possibility, unless in the meantime the land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession. R.S.O. 1950, c. 207, s. 6.

Bar of right to future estates acquired after bar of particular estate

7. For the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.S.O. 1950, c. 207, s. 7.

When right of action devolves to administrator

8. No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon. R.S.O. 1950, c. 207, s. 8.

Effect of mere entry

9. No continual or other claim upon or near any land preserves any right of making an entry or distress or of bringing an action. R.S.O. 1950, c. 207, s. 9.

Continual claim

10. No descent cast, discontinuance or warranty, which has happened or been made since the 1st day of July, 1834, or which may hereafter happen or be made, shall toll or defeat

Descent cast, discontinuance warranty etc.

any right of entry or action for the recovery of land. R.S.O. 1950, c. 207, s. 10.

Possession of
one coparcene-
ner, etc.

11. Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common has or have been in possession or receipt of the entirety, or more than his or their undivided share or shares of the land, or of the profits thereof, or of the rent for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of, or by the last-mentioned person or persons or any of them. R.S.O. 1950, c. 207, s. 11.

Possession of
relations

12. Where a relation of the persons entitled as heirs to the possession or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R.S.O. 1950, c. 207, s. 12.

Effect of
acknowledgment in
writing

13. Where any acknowledgment in writing of the title of the person entitled to any land or rent has been given to him or to his agent, signed by the person in possession or in receipt of the profits of the land, or in the receipt of the rent, such possession or receipt of or by the person by whom the acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent the acknowledgment was given at the time of giving it, and the right of the last-mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover the land or rent, shall be deemed to have first accrued at and not before the time at which the acknowledgment, or the last of the acknowledgments, if more than one, was given. R.S.O. 1950, c. 207, s. 13.

Effect of
receipt of
rent

14. The receipt of the rent payable by a lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R.S.O. 1950, c. 207, s. 14.

Extinguish-
ment of
right at the
end of the
period of
limitation

15. At the determination of the period limited by this Act to any person for making an entry or distress or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress or action, respectively, might have been made or brought within such period, is extinguished. R.S.O. 1950, c. 207, s. 15.

16. Nothing in sections 1 to 15 applies to any waste or vacant land of the Crown, whether surveyed or not, nor to lands included in any road allowance heretofore or hereafter surveyed and laid out or to any lands reserved or set apart or laid out as a public highway where the freehold in any such road allowance or highway is vested in the Crown or in a municipal corporation, commission or other public body, but nothing in this section shall be deemed to affect or prejudice any right, title or interest acquired by any person before the 13th day of June, 1922. R.S.O. 1950, c. 207, s. 16.

Waste or vacant land of Crown excepted

17.—(1) No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, whether it is or is not charged upon land, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress or action but within six years next after the same respectively has become due, or next after any acknowledgment in writing of the same has been given to the person entitled thereto or his agent, signed by the person by whom the same was payable or his agent.

Maximum of arrears of rent or interest recoverable

(2) This section does not apply to an action for redemption brought by a mortgagor or a person claiming under him. R.S.O. 1950, c. 207, s. 17.

Exception as to action for redemption

18. Where a prior mortgagee or other encumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by a person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to the subsequent mortgage or encumbrance may recover in the action the arrears of interest that have become due during the whole time that the prior mortgagee or encumbrancer was in such possession or receipt, although the time may have exceeded the term of six years. R.S.O. 1950, c. 207, s. 18.

Exception in favour of subsequent mortgage when a prior mortgagee has been in possession

19. Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or to some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee, or the person claiming through him, and in such case no such action shall be brought but within ten

Limitation where a mortgagee in possession

years next after the time at which the acknowledgment, or the last of the acknowledgments if more than one, was given. R.S.O. 1950, c. 207, s. 19.

Acknowledgment to one of several mortgagors

20. Where there are more mortgagors than one or more persons than one claiming through the mortgagor or mortgagors, the acknowledgment, if given to any of such mortgagors or persons, or his or their agent, is as effectual as if it had been given to all such mortgagors or persons. R.S.O. 1950, c. 207, s. 20.

Acknowledgment to one of several mortgagees

21. Where there are more mortgagees than one or more persons than one claiming the estate or interest of the mortgagee or mortgagees, the acknowledgment, signed by one or more of such mortgagees or persons, is effectual only as against the person or persons so signing, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and does not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons as have given the acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors are entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money that bears the same proportion to the whole of the mortgage money as the value of the divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R.S.O. 1950, c. 207, s. 21.

Limitation where mortgage in arrear

22. Any person entitled to or claiming under a mortgage of land may make an entry or bring an action to recover the land at any time within ten years next after the last payment of any part of the principal money or interest secured by the mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R.S.O. 1950, c. 207, s. 22.

Limitation where money charged upon land and legacies

23.—(1) No action shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of the land or rent, or to recover any legacy, whether it is or is not charged upon land, but within ten years next after a present right to receive it accrued to some person capable of giving a dis-

charge for, or release of it, unless in the meantime some part of the principal money or some interest thereon has been paid, or some acknowledgment in writing of the right thereto signed by the person by whom it is payable, or his agent, has been given to the person entitled thereto or his agent, and in such case no action shall be brought but within ten years after the payment or acknowledgment, or the last of the payments or acknowledgments if more than one, was made or given.

(2) Notwithstanding subsection 1, a lien or charge created by the placing of an execution or other process against land in the hands of the sheriff or other officer to whom it is directed, remains in force so long as the execution or other process remains in the hands of the sheriff or officer for execution and is kept alive by renewal or otherwise. R.S.O. 1950, c. 207, s. 23. Execution against land

24. No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust. R.S.O. 1950, c. 207, s. 24. Time for recovering charges and arrears of interest not to be enlarged by express trusts for raising same

25. Subject to section 26, no action of dower shall be brought but within ten years from the death of the husband of the dowress, notwithstanding any disability of the dowress or of any person claiming under her. R.S.O. 1950, c. 207, s. 25. Limitation of action of dower

26. Where a dowress has, after the death of her husband, actual possession of the land of which she is dowable, either alone or with an heir or devisee of, or a person claiming by devolution from her husband, the period of ten years within which her action of dower is to be brought shall be computed from the time when such possession of the dowress ceased. R.S.O. 1950, c. 207, s. 26. Time from which right to bring action of dower to be computed

27. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R.S.O. 1950, c. 207, s. 27. Maximum of arrears of dower recoverable

28. In every case of a concealed fraud, the right of a person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by the fraud shall be deemed to have first Cases where fraud remains concealed

accrued at and not before the time at which the fraud was or with reasonable diligence might have been first known or discovered. R.S.O. 1950, c. 207, s. 31.

Case of *bona fide* purchaser for value without notice

29. Nothing in section 28 enables any owner of land or rent to bring an action for the recovery of the land or rent, or for setting aside any conveyance thereof, on account of fraud against any purchaser in good faith for valuable consideration, who has not assisted in the commission of the fraud, and who, at the time that he made the purchase did not know, and had no reason to believe, that any such fraud had been committed. R.S.O. 1950, c. 207, s. 32.

Limitation in case of profits

30. No claim that may be made lawfully at the common law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or of any person, except such matters or things as are hereinafter specially provided for, and except rent and services, where the profit or benefit has been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, shall be defeated or destroyed by showing only that the profit or benefit was first taken or enjoyed at any time prior to the period of thirty years, but nevertheless the claim may be defeated in any other way by which it is now liable to be defeated, and when the profit or benefit has been so taken and enjoyed for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that it was taken and enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1950, c. 207, s. 33.

Right of way easement, etc.

31. No claim that may be made lawfully at the common law, by custom, prescription or grant, to any way or other easement, or to any water-course, or the use of any water to be enjoyed, or derived upon, over or from any land or water of the Crown or being the property of any person, when the way or other matter as herein last before-mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by showing only that the way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless the claim may be defeated in any other way by which it is now liable to be defeated, and where the way or other matter as herein last before-mentioned has been so enjoyed for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that it was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1950, c. 207, s. 34.

32. Each of the respective periods of years mentioned in sections 30 and 31 shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into question, and no act or other matter shall be deemed an interruption within the meaning of those sections, unless the same has been submitted to or acquiesced in for one year after the person interrupted has had notice thereof, and of the person making or authorizing the same to be made. R.S.O. 1950, c. 207, s. 35.

How period to be calculated, and what acts deemed an interruption

33. No person shall acquire a right by prescription to the access and use of light or to the access and use of air to or for any dwelling-house, work-shop or other building, but this section does not apply to any such right acquired by twenty years use before the 5th day of March, 1880. R.S.O. 1950, c. 207, s. 36.

Right to access and use of light by prescription abolished

34. In the cases mentioned in and provided for by this Act, of claims to ways, water-courses or other easements, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R.S.O. 1950, c. 207, s. 37.

Necessity for strict proof

35. No easement in respect of wires or cables attached to property or buildings or passing through or carried over such property or buildings shall be deemed to have been acquired or shall hereafter be acquired by prescription or otherwise than by grant from the owner of the property or buildings. R.S.O. 1950, c. 207, s. 38.

Easements not acquired for carrying wires and cables

36. If at the time at which the right of a person to make an entry or distress, or to bring an action to recover any land or rent, first accrues, as herein mentioned, such person is under the disability of infancy, mental deficiency, mental incompetency or unsoundness of mind, such person, or the person claiming through him, notwithstanding that the period of ten years or five years, as the case may be, hereinbefore limited has expired, may make an entry or distress, or bring an action, to recover the land or rent at any time within five years next after the time at which the person to whom the right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R.S.O. 1950, c. 207, s. 39.

Persons under disability at the time when the right of action accrues

37. No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action, to recover any land or

Utmost allowance for disabilities

rent first accrued was under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which the right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of the twenty years, or although the term of five years from the time at which he ceased to be under any such disability or died, may not have expired. R.S.O. 1950, c. 207, s. 40.

Succession
of
disabilities

38. Where a person is under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent first accrues, and dies without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover the land or rent beyond the period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover the land or rent, first accrued or the period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R.S.O. 1950, c. 207, s. 41.

Persons
under
disability
when right
accrues

39. The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 30 to 35, is an infant, mentally defective person, mentally incompetent person, of unsound mind, or tenant for life, or during which any action has been pending and has been diligently prosecuted, shall be excluded in the computation of the period mentioned in such sections, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R.S.O. 1950, c. 207, s. 42.

Exclusion of
terms of
years, etc.
from com-
putation in
certain cases

40. Where any land or water upon, over or from which any such way or other easement, water-course or use of water has been enjoyed or derived, has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before-mentioned during the continuance of such term shall be excluded in the computation of the period of forty years mentioned in section 31, if the claim is within three years next after the end or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R.S.O. 1950, c. 207, s. 43.

Exception as
to lands of
the Crown
not duly
surveyed
and laid
out

41. Nothing in sections 30 to 35 supports or maintains any claim to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or to any way or other easement, or to any water-course or the use of any water to be enjoyed or derived upon, over or from any land or water of the Crown,

unless the land, way, easement, water-course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by authority of the Crown. R.S.O. 1950, c. 207, s. 44.

PART II

TRUSTS AND TRUSTEES

42. This Part applies to a trust created by an instrument ^{Application of Part II} or an Act of the Legislature heretofore or hereafter executed or passed. R.S.O. 1950, c. 207, s. 45.

43.—(1) In this section, “trustee” includes an executor, <sup>Interpre-
tation</sup> an administrator, a trustee whose trust arises by construction or implication of law as well as an express trustee, and a joint trustee.

(2) In an action against a trustee or a person claiming <sup>Actions
against
trustees</sup> through him, except where the claim is founded upon a fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property or the proceeds thereof, still retained by the trustee, or previously received by the trustee and converted to his use, the following paragraphs apply:

1. All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action if the trustee or person claiming through him had not been a trustee or person claiming through a trustee.
2. If the action is brought to recover money or other property and is one to which no existing statute of limitations applies, the trustee or person claiming through him is entitled to the benefit of, and is at liberty to plead, the lapse of time as a bar to such action in the like manner and to the like extent as if the claim had been against him in an action of debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(3) No beneficiary, as against whom there would be a good <sup>Effect of
judgment
upon rights
of
beneficiaries</sup> defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another

beneficiary than he could have obtained if he had brought the action and this section had been pleaded. R.S.O. 1950, c. 207, s. 46.

When right
accrues
in case of
express trust

44.—(1) Where land or rent is vested in a trustee upon an express trust, the right of the *cestui que trust* or a person claiming through him to bring an action against the trustee or a person claiming through him to recover the land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which the land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

Claim of
cestui que
trust against
trustee

(2) Subject to section 43, no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any statute of limitations. R.S.O. 1950, c. 207, s. 47.

PART III

PERSONAL ACTIONS

Limitation
of time for
commencing
particular
actions

45.—(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

- (a) an action for rent, upon an indenture of demise,
 - (b) an action upon a bond, or other specialty, except upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1894,
 - (c) an action upon a judgment or recognizance,
- within twenty years after the cause of action arose;
- (d) an action upon an award where the submission is not by specialty,
 - (e) an action for an escape,
 - (f) an action for money levied on execution, or
 - (g) an action for trespass to goods or land, simple contract or debt grounded upon any lending or contract without specialty, debt for arrears of rent, detainee, replevin or upon the case other than for slander,

within six years after the cause of action arose;

- (h) an action for a penalty, damages, or a sum of money given by any statute to the Crown or the party aggrieved, within two years after the cause of action arose;

- (i) an action upon the case for words, within two years after the words spoken;
- (j) an action for assault, battery, wounding or imprisonment, within four years after the cause of action arose;
- (k) an action upon a covenant contained in an indenture of mortgage or any other instrument made on or after the 1st day of July, 1894, to repay the whole or part of any moneys secured by a mortgage, within ten years after the cause of action arose or within ten years after the date upon which the person liable on the covenant conveyed or transferred his interest in the mortgaged lands, whichever is later in point of time;
- (l) an action by a mortgagee against a grantee of the equity of redemption under section 18 of *The Mortgages Act*, within ten years after the cause of action arose;
- (m) an action for a penalty imposed by any statute brought by any informer suing for himself alone, or for the Crown as well as himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose.

R.S.O. 1960,
c. 245

(2) Nothing in this section extends to any action where the time for bringing the action is by any statute specially limited. ^{Where time specially limited}
R.S.O. 1950, c. 207, s. 48.

46. Every action of account, or for not accounting, or for such accounts as concerns the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of action arose, and no claim in respect of a matter that arose more than six years before the commencement of the action is enforceable by action by reason only of some other matter of claim comprised in the same account having arisen within six years next before the commencement of the action. ^{Actions of account, etc.} R.S.O. 1950, c. 207, s. 49.

47. Where a person entitled to bring an action mentioned in section 45 or 46 is at the time the cause of action accrues an infant, mental defective, mental incompetent or of unsound mind, the period within which the action may be brought shall be reckoned from the date when such person became of full age or of sound mind. ^{In case of disability of plaintiff} R.S.O. 1950, c. 207, s. 50.

Non-
resident
defendants

48. If a person against whom a cause of action mentioned in section 45 or 46 accrues is at such time out of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R.S.O. 1950, c. 207, s. 51.

Where some
joint debtors
have been
within and
some
without
Ontario

49.—(1) Where a person has any such cause of action against joint debtors or joint contractors, he is not entitled to any time within which to commence such action against any one of them who was in Ontario at the time the cause of action accrued, by reason only that some other of them was, at the time the cause of action accrued, out of Ontario.

Effect of
recovery
against one
joint debtor

(2) The person having such cause of action shall not be barred from commencing an action against a joint debtor or joint contractor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against a joint debtor or joint contractor who was at such time in Ontario. R.S.O. 1950, c. 207, s. 52.

Effect of
written
acknowledgment or
part
payment

50.—(1) Where an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty, judgment or recognizance, or where an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on the indenture, specialty, judgment or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or, in the cases mentioned in clause *k* of subsection 1 of section 45, within ten years after the acknowledgment in writing, or part payment, or part satisfaction, or where the person entitled is, at the time of the acknowledgment, under disability as aforesaid, or the person making the acknowledgment is, at the time of making it, out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, or the person has returned, as the case may be.

Application
of section

(2) In the case of an action upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1939, or upon a covenant contained in an instrument made on or after the 1st day of July, 1939, to pay the whole or part of any moneys secured by a mortgage, this section does not apply to part payments on the mortgage made by a person other than the person liable on the covenant or to acknowledgments in writing signed by any person other than the person liable on the covenant. R.S.O. 1950, c. 207, s. 53.

Promise by
words only

51.—(1) No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing

contract whereby to take out of the operation of this Part, any case falling within its provisions respecting actions,

- (a) of account and upon the case;
- (b) on simple contract or of debt grounded upon any lending or contract without specialty; and
- (c) of debt for arrears of rent,

or to deprive any party of the benefit thereof, unless the acknowledgment or promise is made or contained by or in some writing signed by the party chargeable thereby, or by his agent duly authorized to make the acknowledgment or promise.

(2) Nothing in this section alters, takes away or lessens the effect of any payment of any principal or interest by any person. R.S.O. 1950, c. 207, s. 54. Effect of payment of principal or interest

52. Where there are two or more joint debtors or joint contractors, or joint obligors, or convenantors, or executors or administrators of any debtor or contractor, no such joint debtor, joint contractor, joint obligor, or covenantor, or executor or administrator loses the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed or by reason of any payment of any principal or interest made by any other or others of them. R.S.O. 1950, c. 207, s. 55. Two or more joint contractors, obligors, convenantors, or executors

53. In actions commenced against two or more such joint debtors, joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such joint debtors, joint contractors, or executors or administrators is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R.S.O. 1950, c. 207, s. 56. Judgment where plaintiff is barred as to one or more defendants, but not as to all

54. No endorsement or memorandum of any payment written or made upon a promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act. R.S.O. 1950, c. 207, s. 57. Effect of endorsement, etc. made by the payee

55. This Part applies to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R.S.O. 1950, c. 207, s. 58. Case of set-off

CHAPTER 215

The Limited Partnerships Act

1. A limited partnership for the transaction of any brokerage, financial, mercantile, mechanical, manufacturing or other business in Ontario, except banking, the construction or operation of railways and the business of insurance, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities mentioned in this Act. R.S.O. 1950, c. 208, s. 1.

Formation
of limited
partner-
ships

2. The partnership may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called limited partners. R.S.O. 1950, c. 208, s. 2.

Of whom
to consist

3. General partners are jointly and severally responsible as general partners are by law, but limited partners are not liable for the debts of the partnership beyond the amounts by them contributed to the capital. R.S.O. 1950, c. 208, s. 3.

Liability of
general and
limited
partners

4. The general partners only shall be authorized to transact business and sign for the partnership, and to bind it. R.S.O. 1950, c. 208, s. 4.

General
partners
only to
transact
business etc.

5. The persons desirous of forming such a partnership shall make and each of them shall sign a certificate (Form 1), which shall contain,

Certificate

- (a) the name under which the partnership business is to be carried on;
- (b) the general nature of the business intended to be carried on;
- (c) the names of all the general and limited partners, distinguishing which are general and which are limited partners, and their usual places of residence;
- (d) the amount of capital that each limited partner has contributed;
- (e) the time when the partnership is to commence and the time at which it is to terminate; and

- (f) the principal place of business of the partnership.
R.S.O. 1950, c. 208, s. 5.

Execution

6. The certificate shall be signed by the persons forming the partnership before a notary public who shall certify to its execution. R.S.O. 1950, c. 208, s. 6.

Where filed

R.S.O. 1960,
c. 289

7. The certificate so signed and certified shall be filed with the registrar of the registry division in which the principal place of business named in the certificate is situate, and shall be recorded by him in the same manner as a declaration is recorded under section 11 of *The Partnerships Registration Act*. 1956, c. 41, s. 1, *part*.

Declaration
not required
where certi-
ficate filed

8. Where a certificate is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*. 1956, c. 41, s. 1, *part*.

Fees

9. The registrar is entitled to receive for filing and recording the certificate and for searches the same fees as those provided in section 11 of *The Partnerships Registration Act*. 1956, c. 41, s. 1, *part*.

Partnership
not formed
until certi-
ficate filed

10. No such partnership shall be deemed to have been formed until the certificate has been made, certified and filed, and if any false statement is made in the certificate, all the members of the partnership are liable for all the engagements thereof as general partners. R.S.O. 1950, c. 208, s. 9.

Certificates
of renewal
or continu-
ance

11. Every renewal or continuance of a partnership beyond the time originally fixed for its duration shall be certified, filed and recorded in the manner required for its original formation, and every partnership otherwise renewed or continued shall be deemed a general partnership. R.S.O. 1950, c. 208, s. 10.

What altera-
tions to be
deemed a
dissolution

12. Every alteration made in the partnership name, in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other manner specified in the original certificate shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made shall be deemed a general partnership unless renewed as a limited partnership according to section 11. R.S.O. 1950, c. 208, s. 11.

Partnership
name

13. The business of the partnership shall be conducted under a name in which the names of one or more of the general partners shall be used, and unless any limited partner whose name is used in the partnership name is clearly designated as

a limited partner in a line immediately beneath the name of the partnership upon letterheads, confirmations to customers and statements of account, he shall be deemed a general partner. R.S.O. 1950, c. 208, s. 12.

14. No part of the sum that a limited partner has contributed to the capital shall be withdrawn by him, or paid or transferred to him as dividends, profits or otherwise, during the continuance of the partnership, but any partner may annually receive interest at a rate not exceeding 5 per cent per annum on the sum so contributed by him if the payment of such interest does not reduce the original amount of the capital, and if after the payment of such interest any profits remain to be divided he may also receive his share of such profits. R.S.O. 1950, c. 208, s. 13.

Restrictions upon withdrawal of capital of limited partners

15. If by the payment of interest or profits to a limited partner the original capital has been reduced, he is liable to restore the amount by which his share of the capital has been so reduced with interest. R.S.O. 1950, c. 208, s. 14.

When limited partner liable to refund

16. A limited partner may from time to time examine into the state and progress of the partnership business, and may advise as to its management, and he only becomes liable as a general partner if, in addition to the foregoing, he takes part in the control of the business. R.S.O. 1950, c. 208, s. 15.

Rights and liabilities of limited partners

17. The general partners are liable to account to each other and to the limited partners for their management of the business in like manner as other partners. R.S.O. 1950, c. 208, s. 16.

General partners liable to account

18. In case of the insolvency or bankruptcy of the partnership, a limited partner shall not, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R.S.O. 1950, c. 208, s. 17.

Creditors preferred to limited partners

19. No dissolution of a limited partnership by the acts of the parties shall take place before the time specified in the certificate of its formation or of its renewal until a notice of the dissolution has been filed in the office in which the original certificate was filed and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business and for the same time in *The Ontario Gazette*. R.S.O. 1950, c. 208, s. 18.

No premature dissolution without notice, etc.

FORM 1

(Section 5)

CERTIFICATE OF LIMITED PARTNERSHIP

We, the undersigned, do hereby certify that we have entered into partnership under the name of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at..... and (*C. D.*) residing usually at....., as general partners; and (*E. F.*), residing usually at....., and (*G. H.*), residing usually at....., as limited partners. The said (*E. F.*) having contributed \$..... and the said (*G. H.*) \$..... to the capital of the partnership.

The principal place of business of the partnership is at.....

The partnership is to commence on the.....day of....., 19...., and is to terminate on the..... day of....., 19....

Dated this.....day of....., 19....

(Signed)

*A. B.**C. D.**E. F.**G. H.*

Signed in the presence of me,

L. M.,

Notary Public.

R.S.O. 1950, c. 208, Form 1; 1956, c. 41, s. 2.

CHAPTER 216

The Line Fences Act

1.—(1) In this Act,

Interpre-
tation

- (a) “judge” means a judge of the county or district court;
- (b) “occupied lands” does not include so much of a lot as is unenclosed, although a part of it is enclosed and in actual use and occupation.

(2) Where, within the meaning of section 3, there is a dispute between owners or occupants of lands situate in different local municipalities, Idem

- (a) “fence-viewers” means two fence-viewers of the municipality in which is situate the land of the owner or occupant notified under clause *a* of section 3, and one fence-viewer of the municipality in which is situate the land of the person giving the notice except that in case of a disagreement within the meaning of clause *d* of that section “fence-viewers” means fence-viewers from either or both municipalities;
- (b) “in which the land is situate” or “in which the land lies” means in which is situate the land of the owner or occupant so notified under clause *a* of section 3.

(3) This Act applies *mutatis mutandis* to unoccupied land as well as to occupied land in any township in a county or district if the council of the township passes a by-law declaring that this Act so applies, and if a by-law is passed it is the duty of the clerk of the township to send forthwith a true copy of it to the Department of Municipal Affairs. R.S.O. 1950, c. 209, s. 1. By-law making Act apply to unoccupied lands in township

2.—(1) Owners of adjoining occupied lands shall make, keep up and repair a just proportion of the fence that marks the boundary between them or, if there is no fence, they shall make and keep up and repair the same proportion of a fence to mark such boundary. Duties of owners of adjoining occupied lands

(2) Owners of unoccupied land that adjoins occupied land, upon the unoccupied land becoming occupied, are liable to Unoccupied land

keep up and repair such proportion, and in that respect are in the same position as if their land had been occupied at the time of the original fencing, and are liable to the compulsory proceedings hereinafter mentioned.

Unopened
road
allowance

(3) Where there is an unopened road allowance lying between occupied lands and not enclosed by a lawful fence, it is the duty of the fence-viewers, when called upon, to divide the road allowance equally between the owners of the occupied lands, and to require each owner to make, keep up and maintain a just proportion of fence to mark the division line, but nothing in this section in any way affects or interferes with the rights of the municipality in the road allowance or is deemed to confer any title therein upon such owners or either of them. R.S.O. 1950, c. 209, s. 2.

Disputes
between
owners

3. Where an owner of land desires fence-viewers to view and arbitrate as to what portion of such fence each owner shall make, keep up and repair, or as to the condition of an existing line fence and as to repairs being done to it,

- (a) either owner may notify (Form 1) the other owner or the occupant of the land of the other owner that he will, on a day named, not less than one week from the service of the notice, cause three fence-viewers of the locality to arbitrate in the premises;
- (b) the owner so notifying shall also notify (Form 2) the fence-viewers not less than one week before their services are required;
- (c) the notices in both cases shall be in writing signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and the notice to an owner may be served by leaving it at the place of abode of the owner or occupant with some grown-up person residing thereat, or, in case of the land being untenanted, by leaving the notice with any agent of the owner;
- (d) an owner notified may, within the week, object to any or all the fence-viewers notified, and in case of disagreement, the judge shall name the fence-viewers who are to arbitrate. R.S.O. 1950, c. 209, s. 3.

Duty and
liability of
occupants
as to notify-
ing owners

4. An occupant who is not the owner so notified shall immediately notify the owner, and, if he neglects so to do, is liable for all damage caused to the owner by such neglect. R.S.O. 1950, c. 209, s. 4.

5. The fence-viewers shall examine the premises and, if required by either party, shall hear evidence and may examine the parties and their witnesses on oath. R.S.O. 1950, c. 209, s. 5. ^{Duties and powers of fence-viewers}

6.—(1) The fence-viewers shall make an award (Form 3), signed by any two of them, respecting the matters in dispute and the award shall specify the locality, quantity, description and the lowest price of the fence awarded to be made and the time within which the work shall be done, and shall state by which of the parties or in what proportion the costs of the proceedings are to be paid. ^{Award of fence-viewers}

(2) In making the award, the fence-viewers shall have regard to the nature of the fences in use in the locality, the pecuniary circumstances of the parties and the suitability of the fence to the wants of each of them. ^{Character of fence}

(3) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the parties, they may locate it either wholly or partly on the land of either of the parties where it seems to be most convenient, but such location does not in any way affect the title to the land. ^{Location of fence}

(4) The fence-viewers may employ an Ontario land surveyor and have the locality described by metes and bounds. R.S.O. 1950, c. 209, s. 6. ^{Employment of surveyor}

7. The award shall be deposited in the office of the clerk of the municipality in which the land of the owner who initiated the proceedings is situate, and may be proved by a copy certified by the clerk, and notice in writing of its being made shall be given by the clerk to all parties interested. R.S.O. 1950, c. 209, s. 7. ^{Deposit of award etc.}

8. The judge may, on application of either party, extend the time for making the fence as he deems just. R.S.O. 1950, c. 209, s. 8. ^{Extending time for making fence}

9.—(1) The party desiring to enforce the award shall serve upon the owner or occupant of the adjoining land a notice in writing requiring him to obey the award, and if it is not obeyed within one month after service of the notice may do the work that the award directs, and may immediately take proceedings to recover its value and the costs from the owner by action in the division court of any division in which any part of the land affected by the award is situate. ^{Award, how enforced}

Collection
of debt and
costs as
taxes

(2) Instead of requiring execution to be issued upon the judgment so recovered, the party entitled to enforce the judgment may obtain a certificate from the clerk of the division court of the amount due for debt and costs in respect of the judgment, and is entitled, upon lodging the certificate with the clerk of the municipality, to have the amount so certified placed upon the collector's roll, and the amount may be collected in the same manner as taxes are collected, and is until so collected or otherwise paid a charge upon the land liable for the payment thereof, and in such case execution shall not thereafter issue on the judgment. R.S.O. 1950, c. 209, s. 9.

Award to be
a charge on
land, if
registered

10.—(1) The award may be registered in the proper registry or land titles office and when registered is a charge upon the land affected by it.

How
registered

(2) Registration may be by deposit of a duplicate of the award or of a copy, verified by affidavit, together with an affidavit of the execution of the award. R.S.O. 1950, c. 209, s. 10.

Appeals

11.—(1) Any person dissatisfied with the award may appeal therefrom to the judge.

Notice of
appeal

(2) The appellant shall, within one week from the time when he was notified of the award, serve upon the fence-viewers and all parties interested a notice in writing of his intention to appeal, and the notice may be served as other notices mentioned in this Act.

To clerk

(3) The appellant shall also deliver a copy of the notice to the clerk of the division court of the division in which the land lies, and the clerk shall immediately notify the judge of the appeal and the judge shall fix a time and place for the hearing of the appeal and shall communicate the same to the clerk, and, if he thinks fit, may order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal.

Notice of
hearing

(4) The clerk shall notify the fence-viewers and all parties interested of the time and place of hearing, in the manner hereinbefore provided for the service of other notices under this Act.

Powers of
judge

(5) The judge shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of costs by either party and fix the amount of the costs.

Decision of
judge to
be final

(6) The decision of the judge is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

(7) The practice and procedure on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the division court. Procedure

(8) Where the award affects land in two or more counties or districts, the appeal may be to the judge of the county or district in which any part of the land is situate. R.S.O. 1950, c. 209, s. 11. Where land in different counties

12.—(1) Each fence-viewer is entitled to \$5 or such larger amount, not exceeding \$10, as the council by by-law fixes for every day's work under this Act, and an Ontario land surveyor and a witness is entitled to the same compensation as if subpoenaed in a division court. R.S.O. 1950, c. 209, s. 12 (1); 1956, c. 42, s. 1. Fees to fence-viewers, surveyors and witnesses

(2) The corporation of the municipality shall, at the expiration of the time for appeal or after appeal, as the case may be, pay to the fence-viewers their fees, and shall, unless the fees are forthwith repaid by the person adjudged to pay the fees, place the amount upon the collector's roll as a charge against such person, and the amount may be collected in the same manner as municipal taxes. R.S.O. 1950, c. 209, s. 12 (2). Payment of fence-viewers' fees

13.—(1) If the judge inspects the premises or hears the appeal at a place other than the county or district town, he is entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the amount is to be paid. Judge's expenses

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and it shall be collected in the same manner as is provided in respect to the fence-viewer's fees. R.S.O. 1950, c. 209, s. 13. Municipality to pay expenses and collect amount

14. Any agreement in writing (Form 4) between owners respecting a line fence may be filed or registered and enforced as if it was an award of fence-viewers. R.S.O. 1950, c. 209, s. 14. Enforcement of agreements

15.—(1) The owner of the whole or part of a line fence that forms part of the fence enclosing the occupied or improved land of another person shall not take down or remove any part of such fence, Certain fences removable on notice

(a) without giving at least six months previous notice of his intention to the owner or occupant of the adjacent enclosure unless the last-mentioned owner or occupant, after demand made upon him in writing by the

owner of the fence, refuses to pay therefor the sum determined as provided by section 6; or

- (b) if such owner or occupant will pay to the owner of the fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 6.

Other provisions of Act to apply

(2) The provisions of this Act for determining disputes between the owners of adjoining occupied lands, the manner of enforcing awards and appeals therefrom and the forms and all other provisions of this Act, so far as applicable, apply to proceedings under this section. R.S.O. 1950, c. 209, s. 15.

Where tree thrown down across a line fence

16.—(1) If any tree is thrown down by accident or otherwise across a line fence, or in any way in and upon the land adjoining that upon which the tree stood, causing damage to the crop upon such land or to such fence, the owner or occupant of the land on which the tree stood shall forthwith remove it and also forthwith repair the fence and otherwise make good any damage caused by the falling of the tree.

When injured party may remove tree

(2) On his neglect or refusal so to do for forty-eight hours after notice in writing to remove the tree, the injured person may remove it in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain the tree to remunerate him for such removal, and may also recover any further amount of damages beyond the value of the tree from the person liable to pay it.

Right of entry

(3) For the purpose of such removal, the owner of the tree may enter into and upon the adjoining land doing no unnecessary spoil or waste.

Fence-viewers to decide disputes

(4) All questions arising under this section shall be adjusted by three fence-viewers of the municipality and the decision of any two of whom is binding upon the parties. R.S.O. 1950, c. 209, s. 16.

FORM 1

(Section 3)

NOTICE TO OPPOSITE PARTY

Take notice that, and
....., three fence-viewers of this locality, will attend
on the..... day of....., 19...., at the
hour of....., to view and arbitrate upon the line fence
in dispute between our lands, being lots (*or* parts of lots) *one* and *two* in
the.....concession of the township of.....in
the county of.....

Dated the.....day of....., 19....

A. B.,

Owner of lot 1.

To C. D.,

Owner of lot 2.

R.S.O. 1950, c. 209, Form 1.

FORM 2

(Section 3)

NOTICE TO FENCE-VIEWERS

Take notice that I require you to attend at.....on the
.....day of....., 19....,at the hour of
....., to view and arbitrate on the line fence between my land and
that of, being lots (*or* parts of lots) Nos.
one and *two* in theconcession of the township of.....
in the county of.....

Dated the.....day of....., 19....

A. B.,

Owner of lot 1.

To

Fence-viewers.

R.S.O. 1950, c. 209, Form 2.

FORM 3

(Section 6)

AWARD

We, the fence-viewers of (*name of the locality*), having been nominated to view and arbitrate upon the line fence between of (*name and description of owner who notified*) and (*name and description of owner notified*), which fence is to be made and maintained between (*describe land*), and having examined the land and duly acted according to *The Line Fences Act*, award as follows: That part of the line that commences at and ends at (*describe the points*) shall be fenced, and the fence maintained by, and that part thereof that commences at and ends at (*describe the points*) shall be fenced, and the fence maintained by The fence shall be of the following description (*state the kind of fence, height, material, etc.*) and shall cost at least per rod. The work shall be commenced within days and completed within days from this date, and the costs shall be paid by (*state by whom to be paid; if by both, in what proportion*).

Dated the day of, 19.....

(Signatures of fence-viewers)

Witnesses:

R.S.O. 1950, c. 209, Form 3.

FORM 4

(Section 14)

AGREEMENT

We, and, owners respectively of lots (*or parts of lots*) *one* and *two* in the concession of the township of, in the county of, do agree that the line fence that divides our lands shall be made and maintained by us as follows: (*follow the same form as award*)

Dated the day of, 19.....

(Signatures of parties)

Witnesses:

R.S.O. 1950, c. 209, Form 4.

CHAPTER 217

The Liquor Control Act

1.—(1) In this Act,

Interpre-
tation

- (a) "beer" means any liquor obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water; R.S.O. 1950, c. 210, s. 1, cl. (a); 1958, c. 52, s. 1 (1).
- (b) "Board" means the Liquor Control Board of Ontario;
- (c) "dentist" means a member of the Royal College of Dental Surgeons of Ontario registered under *The Dentistry Act* and holding a certificate of licence to practise dentistry; R.S.O. 1960, c. 91
- (d) "druggist" means a pharmaceutical chemist registered and entitled to practise under *The Pharmacy Act*; R.S.O. 1950, c. 210, s. 1, cls. (b-d). R.S.O. 1960, c. 295
- (e) "Government store" means a store established or authorized under this Act by the Board for the sale of liquor, for the sale of Ontario wine only or for the sale of beer only, and includes a store of the Brewers' Warehousing Company Limited and a store of a producer of Ontario wine; 1953, c. 57, s. 1.
- (f) "interdicted person" means a person to whom the sale of liquor is prohibited by order under this Act;
- (g) "judge" means the judge, junior judge or acting judge of a county or district court;
- (h) "justice" means a magistrate and, where no magistrate is available, includes two or more justices of the peace or any person having the power or authority of two or more justices;
- (i) "licence" means a licence issued by the Board to a brewer, distiller or producer of Ontario wine under this Act or the regulations; R.S.O. 1950, c. 210, s. 1, cls. (f-i).
- (j) "liquor" means any alcohol, any alcoholic, spirituous, vinous, fermented malt or other liquid, any combination of liquids or mixed liquids a part of which

is alcoholic, spirituous, vinous or fermented, any preparation, combination or mixture capable of human consumption that is alcoholic, spirituous, vinous or fermented, and includes wine, Ontario wine, and beer; 1958, c. 52, s. 1 (2).

(k) "Minister" means the member of the Executive Council to whom for the time being is assigned the supervision of the administration of this Act and the regulations; R.S.O. 1950, c. 210, s. 1, cl. (k).

(l) "Ontario wine" means,

(i) wine produced from grapes or cherries grown in Ontario or the concentrated juice thereof, and includes Ontario wine to which has been added herbs, water, honey, sugar or the distillate of Ontario wine, or

(ii) wine produced by the alcoholic fermentation of Ontario honey with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine; 1958, c. 52, s. 1 (3).

(m) "package" means a container, bottle, vessel or other receptacle used for holding liquor;

(n) "permit" means a permit for the purchase of liquor, beer or wine issued by the Board;

R.S.O. 1960,
c. 234

(o) "physician" means a legally qualified medical practitioner registered under *The Medical Act*;

(p) "prescription" means a memorandum in the form prescribed by the regulations, signed by a physician, and given by him to a patient for the purpose of obtaining liquor pursuant to this Act for use for medicinal purposes only;

(q) "public place" means a place, building or convenience to which the public has, or is permitted to have, access, and includes any highway, street, lane, park or place of public resort or amusement;

(r) "regulations" means the regulations made under this Act; R.S.O. 1950, c. 210, s. 1, cls. (m-r).

(s) "residence" means,

(i) a building or part of a building that is *bona fide* and actually occupied and used by the owner, lessee or tenant solely as a private

dwelling together with the lands and buildings appurtenant thereto that in fact are normally and reasonably used as part of the living accommodation,

- (ii) a private guest room in an hotel or motel that is *bona fide* and actually occupied as such by a guest of the hotel or motel, or
- (iii) a trailer, tent or vessel that is *bona fide* and actually used by the owner, lessee or tenant as a private dwelling; 1958, c. 52, s. 1 (4).

(t) "sale" and "sell" include exchange, barter and traffic, and also include selling, supplying or distributing, by any means whatsoever, of liquor or of any liquid known or described as beer by any partnership, or by any society, association or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated, to any partnership, society, association or club or to any member thereof;

(u) "veterinary" means a person authorized to practise veterinary science under *The Veterinarians Act*; R.S.O. 1960, c. 416

(v) "wine" means any liquor obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk. R.S.O. 1950, c. 210, s. 1, cls. (t-v).

(2) Liquor shall be deemed to be intoxicating for the purposes of this Act. 1958, c. 52, s. 1 (5). Liquor deemed intoxicating

ADMINISTRATION

2. The Liquor Control Board of Ontario shall consist of L.C.B.O. one, two or three members as determined from time to time by the Lieutenant Governor in Council, with the powers and duties herein specified, and the administration of this Act and the regulations, including the general control, management and supervision of all Government liquor stores is vested in the Board. R.S.O. 1950, c. 210, s. 2, *amended*.

3. The Lieutenant Governor in Council may designate one of the members of the Board to be chairman thereof who shall be known as the Chief Commissioner, and may designate any other member or any officer of the Board to be Deputy Chief Commissioner, and in case of a vacancy in the office, or of sickness or inability to act of the Chief Commissioner, the Deputy Chief Commissioner

Chief Commissioner has and may exercise and perform all the powers, duties and functions of the Chief Commissioner. R.S.O. 1950, c. 210, s. 3.

Seat in
Assembly
not vacated
R.S.O. 1960,
c. 208

4. Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the chairman or of any other member of the Board, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1950, c. 210, s. 4.

Appoint-
ment,
quorum and
salaries of
the Board

5. The Lieutenant Governor in Council shall,

- (a) appoint the member or members of the Board;
- (b) specify the member or members that constitutes a quorum of the Board;
- (c) fix the salaries of the members of the Board. R.S.O. 1950, c. 210, s. 5.

Principal
office

6. The principal office of the Board shall be at Toronto. R.S.O. 1950, c. 210, s. 6.

Chief Com-
missioner's
duties and
powers

7. The Chief Commissioner shall have charge of the officers, inspectors, clerks and servants of the Board who shall be responsible to him in the first instance. R.S.O. 1950, c. 210, s. 7.

Power and
duties of
Board:

8.—(1) It is the duty of the Board and it has power,

import
and sale

- (a) to buy, import and have in its possession for sale, and to sell, liquor in the manner set forth in this Act and the regulations;

control

- (b) to control the possession, sale, consumption, transportation and delivery of liquor in accordance with this Act and the regulations; R.S.O. 1950, c. 210, s. 9, cls. (a, b).

location
of stores
R.S.O. 1960,
c. 218

- (c) subject to *The Liquor Licence Act*, to determine the municipalities within which Government stores shall be established or authorized and the location of such stores in such municipalities; 1953, c. 57, s. 2.

provision
for ware-
houses

- (d) to make provision for the maintenance of warehouses for beer, wine or liquor and to control the keeping in and delivery from any such warehouses;

issue, etc.,
permits

- (e) to issue, refuse, suspend or cancel permits for the purchase of liquor;

- (f) to lease any land or building required for the purposes ^{leasing premises} of this Act and the regulations;
- (g) to purchase or lease or acquire the use by any manner ^{acquisition of plant, etc.} whatsoever of any plant or equipment that is considered necessary or useful in carrying into effect the object and purposes of this Act and the regulations;
- (h) to engage the services of experts and persons engaged in the practice of any profession where it is ^{expert advice} deemed expedient;
- (i) to appoint officials to issue and grant permits under ^{appointment of officials to issue permits} this Act and the regulations;
- (j) to determine the nature, form and capacity of all ^{packages} packages to be used for containing liquor to be kept or sold under this Act and the regulations;
- (k) to appoint one or more vendors of sacramental wines ^{vendors of sacramental wines} in any municipality and to regulate or restrict the keeping for sale, sale and delivery of such wine;
- (l) without in any way limiting or being limited by the ^{general} foregoing clauses, generally to do all such things as are deemed necessary or advisable by the Board for the purpose of carrying into effect this Act and the regulations. R.S.O. 1950, c. 210, s. 9, cls. (d-l).

(2) The Board may by order exempt from this Act any ^{Exemption} product or class of product that contains alcohol and that is not, in the opinion of the Board, what is commonly known as spirituous liquor, wine, Ontario wine, or beer. 1958, c. 52, s. 2.

9.—(1) The Board, with the approval of the Lieutenant ^{Regulations} Governor in Council, may make such regulations as the Board deems necessary for carrying out this Act and for the efficient administration thereof.

(2) Without limiting the generality of subsection 1, the ^{Idem:} powers of the Board to make regulations in the manner set out in that subsection extend to and include,

- (a) regulating the equipment and management of Gov- ^{regulating equipment} ernment stores and warehouses in which liquor may be kept or sold;
- (b) prescribing the duties of the officers, inspectors, ^{duties of employees} clerks and servants of the Board and regulating their conduct while in the discharge of their duties;
- (c) governing the purchase of liquor and the furnishing ^{purchase of liquor} of liquor to Government stores;

- | | |
|--|---|
| varieties of liquor | (d) determining the classes, varieties and brands of liquor to be kept for sale at Government stores; |
| hours for sale | (e) prescribing the days and hours at which Government stores or any of them shall be kept open; |
| price lists | (f) providing for the issue and distribution of price lists showing the price to be paid for each class, variety or brand of liquor kept for sale in Government stores; |
| books of account and records of sales | (g) prescribing the books of account to be kept by the Board showing the expenditure of the Board in the administration of this Act and the regulations and in the purchase, sale and delivery of liquor and the receipts of the Board from the sale of liquor in Government stores or from the issue of permits for the purchase of liquor; |
| official seal | (h) prescribing an official seal and official labels and determining the manner in which the seal or label shall be attached to every package of liquor sold or sealed under this Act or the regulations, including the prescribing of different official seals or different official labels for the different classes, varieties and brands of liquor; |
| forms, conditions of licences, etc. | (i) prescribing forms to be used for the purposes of this Act or the regulations and the terms and conditions in permits and licences issued under this Act or the regulations; |
| duplicate permits | (j) prescribing the nature of the proof to be furnished and the conditions to be observed in the issuing of duplicate permits in lieu of those lost or destroyed; |
| quantities of liquors, etc.
R.S.O. 1960, c. 218 | (k) prescribing the kinds and quantities of liquor that may be sold or purchased under permits or under licences under <i>The Liquor Licence Act</i> , including the quantity that may be sold or purchased at any one time or within any specified period of time and the alcoholic content of any such liquor; |
| records of purchases by holders of permits | (l) prescribing the forms of records of purchases of liquor by the holders of permits, and the reports to be made thereon to the Board, and providing for inspection of the records to be kept; |
| notices | (m) prescribing the manner of giving and serving notices required by this Act or the regulations; |
| duties of officials authorized to issue permits | (n) prescribing the duties of officials authorized to issue permits under this Act or the regulations; |

- (o) prescribing the fees payable in respect of permits and licences issued under this Act, and prescribing the tax, fees and assessments payable by any brewer, distiller or producer of Ontario wine; ^{fees}
- (p) prescribing the books, records and returns to be kept by the holder of any licence for the sale of liquor under this Act; ^{books, etc.}
- (q) supervising the distribution of supplies and the manner in which liquor may be kept and stored; ^{distribution and storage}
- (r) supervising the hours and days upon which, and the manner, methods and means by which vendors and brewers shall deliver liquor under this Act or the regulations and the hours and days during which, and the manner, methods and means by which liquor, under this Act or the regulations, may be lawfully conveyed and carried; ^{delivery and conveyance of liquor}
- (s) governing the sale to and purchase by holders of licences under *The Liquor Licence Act* of liquor for sale upon premises licensed under *The Liquor Licence Act*; ^{governing sale of liquor R.S.O. 1960, c. 218}
- (t) governing the conduct, management and equipment of any premises upon which liquor may be sold or consumed under this Act or the regulations; ^{conduct of premises}
- (u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 210, s. 10. ^{in general}

10. Wherever it is provided in this Act that any act, matter or thing may be done or permitted or authorized by the regulations, or may be done in accordance with the regulations, or as provided by the regulations, the Board has the power to make regulations respecting such act, matter or thing. R.S.O. 1950, c. 210, s. 11, *amended*. ^{General}

11. The Board, with the approval of the Lieutenant Governor in Council, may, ^{Powers of Board:}

- (a) purchase any land or building and equip any building required for the purposes of this Act or the regulations and, where deemed necessary, purchase or acquire the whole or any portion of the output or product of any manufacturer, distiller, brewery, plant or appliance in which liquor is manufactured or produced; ^{purchase of property and output}

appoint-
ment of
officers and
staff

- (b) appoint such officers, inspectors, vendors, servants and agents as the Board deems necessary in the administration of this Act and the regulations and by regulation prescribe the terms of their employment, fix their salaries or remuneration and define their respective duties and powers. R.S.O. 1950, c. 210, s. 12.

Acquiring
land, etc.

12.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board,

- (a) may acquire by purchase, lease or in any other manner, or without the consent of the owner thereof, enter upon, take possession of, expropriate and use, any land or property that it deems necessary for its undertakings; and
- (b) has and may exercise and enjoy, in addition to the powers conferred by this Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act* and, in the application of this section, where the words "the Minister", "the Department" or "the Crown" appear in such Act, they, where the context permits, mean the Board.

R.S.O. 1960,
c. 338

Mode of
perfecting
title

(2) Upon the registration in the proper registry or land titles office of a plan and description of the land acquired by the Board, signed by the chairman of the Board and by an Ontario land surveyor, the land so described thereupon becomes and is vested in the Board.

Procedure

(3) Except as otherwise provided in this Act, the Board shall, in the exercise of its compulsory powers authorized by this section, proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation apply *mutatis mutandis*.

Exercise of
powers not
to be
enjoined

(4) No action or proceeding of the Board taken pursuant to this section shall be restrained by injunction or process or proceeding in any court. R.S.O. 1950, c. 210, s. 13.

Payment of
expenses

13. All property, whether real or personal, all moneys acquired, administered, possessed or received by the Board and all profits earned in the administration of this Act and the regulations are the property of the Crown in right of Ontario, and all expenses, debts and liabilities incurred by the Board in connection with the administration of this Act and the

regulations shall be paid by the Board from the moneys received by the Board under such administration. R.S.O. 1950, c. 210, s. 14.

14.—(1) The Board shall from time to time make reports to the Lieutenant Governor in Council covering such matters in connection with the administration of this Act and the regulations as he requires, and shall make annually to the Lieutenant Governor in Council, through the Minister, a report for the twelve months ending on the 31st day of March in the year in which the report is made, which shall contain,

Reports to
Lieutenant
Governor
in Council

- (a) a statement of the nature and amount of the business transacted by the vendors under this Act and the regulations during the year;
- (b) a statement of the Board's assets and liabilities, including a profit and loss account, and such other accounts and matters as are necessary to show the results of its operations for the year;
- (c) general information and remarks as to the working of this Act and the regulations;
- (d) any other information requested by the Minister.

(2) Every annual report made under this section shall be laid forthwith before the Legislature, if the Legislature is then in session, or, if not then in session, shall be laid before the Legislature within fifteen days after the opening of the session following the close of the fiscal year. R.S.O. 1950, c. 210, s. 15.

Report to be
presented to
Legislature

15. The books and records of the Board are at all times subject to examination and audit by the Provincial Auditor and by such other person as the Lieutenant Governor in Council authorizes in that behalf. R.S.O. 1950, c. 210, s. 16.

Audit of
books of
Board

16. The Treasurer of Ontario may set aside out of the Consolidated Revenue Fund such sums as he deems necessary and requisite for the purchase of liquor by the Board, and for other necessary purposes in the administration of this Act and the regulations. R.S.O. 1950, c. 210, s. 17.

Treasurer
of Ontario
to provide
necessary
funds

17. The Board shall make all payments necessary for its administration of this Act and the regulations, including the payment of the salaries of the members of the Board and its staff and all expenditures incurred in establishing and maintaining Government stores and in its administration of this Act and the regulations. R.S.O. 1950, c. 210, s. 18.

Payment
of salaries,
expenses
of stores

Moneys
from liquor
sales

18. Except at stores for the sale of beer only and stores for the sale of Ontario wine only, all moneys received from the sale of liquor at Government stores and from licence and permit fees, or otherwise arising in the administration of this Act and the regulations, shall be paid to the Board. R.S.O. 1950, c. 210, s. 19; 1960, c. 59, s. 2.

Accounts
payable by
Board

19. All accounts payable by the Board shall be audited by such person as is designated by the Board and may be audited by the Provincial Auditor, and all cheques for payment of accounts shall be signed by the Chief Commissioner or by such other officer as is designated by the Board for that purpose. R.S.O. 1950, c. 210, s. 20.

Fiscal year

20. The accounts of the Board shall be made up to the 31st day of March in each year, and at such other times as is determined by the Lieutenant Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss and submit them to the Provincial Auditor for his certification. R.S.O. 1950, c. 210, s. 21.

Annual
audit

21. The accounts of the Board shall be audited annually by the Provincial Auditor or by such other person, firm or corporation as the Lieutenant Governor in Council appoints, and the report of such auditor containing such particulars as the Lieutenant Governor in Council requires shall be made to the Lieutenant Governor in Council on or before the 1st day of January next following the close of the fiscal year for which the report is made. R.S.O. 1950, c. 210, s. 22.

Reserve
fund, etc.

22. From the profits received under this Act and the regulations as certified by the auditor there shall be taken such sums as are determined by the Lieutenant Governor in Council for the creation of a reserve fund to meet any loss that is incurred by the Government in connection with the administration of this Act and the regulations. R.S.O. 1950, c. 210, s. 23.

Audit of
receipts

23. The receipts of the Board from all sources shall be checked and audited at least once in every calendar month by the Provincial Auditor or such other person as is designated by the Lieutenant Governor in Council. R.S.O. 1950, c. 210, s. 24.

Net profits

24. The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 210, s. 25.

25. Every vendor and every official authorized by the Board to issue permits under this Act, *The Liquor Licence Act* or the regulations hereunder or thereunder may administer any oath and take and receive any evidence or declaration required under either of such Acts or regulations. R.S.O. 1950, c. 210, s. 26; 1953, c. 57, s. 3.

26.—(1) Except with the consent of the Minister, no action or proceeding shall be taken against any member or members or against any official or vendor of the Board for anything done or omitted to be done in or arising out of the performance of his or their duties under this Act or the regulations.

(2) Every action, order or decision of the Board as to any matter or thing in respect of which any power, authority or discretion is conferred on the Board under this Act or the regulations is final and shall not be questioned, reviewed or restrained by injunction, prohibition or mandamus or other process or proceeding in any court or be removed by *certiorari* or otherwise in any court.

(3) The Board may, with the consent of the Attorney General, be sued and may institute or defend proceedings in any court of law or otherwise in the name of The Liquor Control Board of Ontario as fully and effectually to all intents and purposes as though the Board were incorporated under such name, and no such proceedings shall be taken against or in the names of the members of the Board, and no such proceedings shall abate by reason of any change in the membership of the Board by death, resignation or otherwise, but such proceedings may be continued as though such changes had not occurred. R.S.O. 1950, c. 210, s. 27.

27.—(1) Every order for the purchase of liquor shall be authorized by the Chief Commissioner or Deputy Chief Commissioner and no order is valid or binding unless so authorized.

(2) A duplicate of every such order shall be kept on file in the office of the Board.

(3) All cancellations of such orders made by the Board shall be executed in the same manner and a duplicate thereof kept as aforesaid. R.S.O. 1950, c. 210, s. 28.

28. Subject to the regulations, the Board may require the holder of a licence for the sale of liquor to give such security and to comply with such other provisions as the Board deems necessary or desirable in order to secure the due observance of this Act and the regulations. R.S.O. 1950, c. 210, s. 29.

Board not
compellable
to issue
permits, etc.

29. Notwithstanding anything in this Act or the regulations, the Board is not compellable to issue any permit or licence under this Act or the regulations, and it may refuse, suspend or cancel any such permit or licence in its discretion, and it is not obliged to give any reason or explanation for such refusal, suspension or cancellation. R.S.O. 1950, c. 210, s. 30.

ESTABLISHMENT OF GOVERNMENT STORES AND SALES UNDER PERMITS

Government
stores

R.S.O. 1960,
c. 218

Prices set

30.—(1) Government stores may be established by the Board in accordance with this Act and the regulations and *The Liquor Licence Act* and the regulations thereunder.

(2) The Board may fix the prices at which the various classes, varieties and brands of liquor are to be sold, and, except in the case of beer, such prices shall be the same at all Government stores. R.S.O. 1950, c. 210, s. 31.

Vendors

31. The sale of liquor at each Government store shall be conducted by a person appointed under this Act known as a vendor who is, under the directions of the Board, responsible for the carrying out of this Act and the regulations so far as they relate to the conduct of such store and the sale of liquor thereat. R.S.O. 1950, c. 210, s. 32.

Sale of
liquor to
permit
holder

32.—(1) A vendor may sell to any person who is the holder of a subsisting permit such liquor as that person is entitled to purchase under such permit in conformity with this Act and the regulations. R.S.O. 1950, c. 210, s. 33 (1).

Conditions
upon which
sale may be
made

(2) Except as provided by the regulations, no liquor sold under this section shall be delivered until,

- (a) the purchaser has given a written order to the vendor, dated and signed by the purchaser and stating the number of his permit and the kind and quantity of the liquor ordered; and
- (b) the purchaser has produced his permit for inspection by the vendor; and
- (c) the purchaser has paid for the liquor in cash. R.S.O. 1950, c. 210, s. 33 (2); 1957, c. 61, s. 1.

Sealing of
package

33. Except as provided by this Act and the regulations, liquor shall be sold to a purchaser only in a package sealed with the official seal as prescribed by this Act or the regulations, and such package shall not be opened on the premises of a Government store. R.S.O. 1950, c. 210, s. 34.

34. No officer, clerk or servant of the Board employed in a Government store shall allow any liquor to be consumed on the premises of a Government store nor shall any person consume any liquor on any such premises. R.S.O. 1950, c. 210, s. 35. Consumption in Government store

35. No sale or delivery of liquor shall be made on or from the premises of any Government store nor shall any store be kept open for the sale of liquor, Days and hours for sale

(a) on any holiday;

(b) on any day on which polling takes place at any federal or provincial election held in the electoral district in which the store is situated;

(c) on any day on which polling takes place at any municipal election held in the municipality in which the store is situated or upon any question submitted to the electors of the municipality under any Act; or

(d) during such periods or on such days as the Board directs. R.S.O. 1950, c. 210, s. 36.

36.—(1) It is lawful to carry or convey liquor to any Government store and to and from any warehouse or depot established by the Board for the purpose of this Act and the regulations, and, when permitted so to do by this Act and the regulations and in accordance herewith, it is lawful for any common carrier, or other person, to carry or convey liquor sold by a vendor from a Government store, or beer, when lawfully sold by the Board or a vendor, from the premises wherein the beer was manufactured, or from premises where the beer may be lawfully kept and sold, to any place in Ontario to which the beer may be lawfully delivered under this Act and the regulations, but no such common carrier or other person shall open, or break, or allow to be opened or broken, any package or vessel containing liquor, or drink, or use, or allow to be drunk or used, any liquor therefrom while being so carried or conveyed. R.S.O. 1950, c. 210, s. 37. Delivery of liquor to and from Government store

(2) A purchaser of liquor or his duly authorized agent may carry or convey it from the premises where it may be lawfully kept or sold to the residence of the purchaser and such carriage or conveyance need not be direct if the package or vessel containing the liquor is unopened and the seal unbroken. Conveyance of liquor

(3) A person lawfully in possession of liquor may carry or convey it from a residence occupied by him to a residence to be occupied by him, even where the package or vessel containing the liquor has been opened and the seal broken. 1960, c. 59, s. 3. Idem

Classes of permits

37.—(1) The Board may issue two classes of permits under this Act and the regulations for the purchase of liquor, namely,

- (a) individual permits; and
- (b) special permits. R.S.O. 1950, c. 210, s. 38 (1).

Application and issue of permits

(2) Upon application in the prescribed form being made to the Board or to any official authorized by the Board to issue permits accompanied by payment of the prescribed fee and upon the Board or such official being satisfied that the applicant is entitled to a permit for the purchase of liquor under this Act and the regulations, the Board or such official may issue to the applicant,

Individual permits

- (a) an individual permit in the prescribed form to any person of the full age of twenty-one years who is not disqualified under this Act or the regulations, entitling him to purchase liquor in accordance with this Act and the regulations;

Special permits for physicians, etc.

- (b) a special permit in the prescribed form to a druggist, physician, dentist or veterinary or a person engaged in Ontario in any mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling him to purchase liquor for the purpose named in the permit and in accordance with the terms of the permit and in accordance with the provisions of this Act and the regulations;

Special permits for ministers

- (c) a special permit in the prescribed form to a priest, minister of the gospel or any other minister of any religious faith authorized to solemnize marriage in Ontario, entitling him to purchase wine for sacramental purposes in accordance with the terms of the special permit; or

Special permits under regulations

- (d) a special permit in the prescribed form, when authorized by the regulations, entitling the holder to purchase liquor for the purpose named in the permit and in accordance with the terms of the permit and of this Act and the regulations. R.S.O. 1950, c. 210, s. 38 (2); 1957, c. 61, s. 2.

Discretion as to permits

(3) Notwithstanding any other provision of this Act or the regulations, the Board may refuse or direct any official authorized to issue permits to refuse to issue a permit to any person, and no official so directed shall issue any such permit.

Board may authorize purchase of beer and wine without permit

(4) Notwithstanding the provisions of this Act and the regulations providing for the purchase, having, possession and consumption of liquor upon a permit, the Board may provide that beer or wine may be purchased, had, possessed and consumed without a permit therefor for such time and upon and

subject to such conditions and restrictions as the regulations prescribe, and, when and during the time the purchase, having, possession and consumption of beer or wine is authorized without a permit therefor, every provision of this Act and the regulations relating to the purchasing, having, possessing and consuming of liquor under a permit shall be construed with due regard to the fact that the purchase, having, possession and consumption of beer or wine may be made and had without such permit. R.S.O. 1950, c. 210, s. 38 (3-5).

38. Unless sooner cancelled, every permit expires at midnight on the 31st day of March of the year in respect of which it is issued, except in the case of, ^{Expiry of permits}

- (a) special permits issued under clause *d* of subsection 2 of section 37, which expire in accordance with the terms contained therein;
- (b) a permit which, according to its terms, sooner expires. R.S.O. 1950, c. 210, s. 39.

39. Every permit shall be issued in the name of the applicant therefor and no permit is transferable nor shall the holder of any permit allow any other person to use it. R.S.O. 1950, c. 210, s. 40. ^{Issue of permit}

40. No permit shall be delivered to the applicant until he has, in the presence of some person duly authorized by the Board or in the presence of the official to whom the application is made, written his signature thereon in the manner prescribed by the regulations for the purpose of his future identification as the holder thereof and the signature has been attested by a member of the Board or other official authorized to issue the same. R.S.O. 1950, c. 210, s. 41. ^{Restrictions as to number}

41. No person who is the holder of an unexpired individual permit under this Act or the regulations shall make application for or is entitled to hold any other individual permit, but the holder of a subsisting individual permit may, without any claim to or for rebate, return such permit to the Board or official authorized to issue permits and then be entitled to make application for a permit under this Act or the regulations, and any person whose permit has been lost or destroyed may apply to the Board or other official by whom the permit was issued and, upon proof of the loss or destruction of the permit and subject to the conditions contained in the regulations, may obtain a duplicate permit in lieu of the permit so lost or destroyed for which duplicate permit a fee of 50 cents shall be paid. R.S.O. 1950, c. 210, s. 42, *amended*. ^{Restrictions as to issue}

Where
liquor may
be kept, etc.
R.S.O. 1960,
c. 218

42.—(1) Liquor may be kept, had, given or consumed only in a residence of the purchaser or of a donee under section 45, except as otherwise provided by *The Liquor Licence Act* or this Act or the regulations under this Act or that Act. 1960, c. 59, s. 5.

Disqualifi-
cation of
premises on
conviction

(2) If the occupant of a residence or of any part thereof, including the rooms of any lodgers, boarders or tenants therein, or any member of the family of such occupant is convicted of keeping a disorderly house or of an offence against any of the provisions of this Act or the regulations committed in or in respect of such residence or rooms, or in respect of any liquor kept therein or removed therefrom, the justice making the conviction may, in and by the conviction, declare such residence or the rooms of such lodgers, boarders or tenants therein or both to be a public place for the purposes of this Act and the regulations and thereupon such residence or rooms or both cease to be a residence within the meaning of this Act and the regulations for a period of one year after the date of the conviction; but the Board may, when satisfied of a *bona fide* change of ownership or occupation of such residence or rooms or both, or when it is desirable to do so, declare such residence or rooms or both to be a residence within the meaning of this Act and the regulations and may grant a certificate to such effect to the new owner or occupant of such residence or rooms or both and such residence or rooms or both shall from the date of the granting of such certificate, signed by the Chief Commissioner or Deputy Chief Commissioner of the Board, be a residence and cease to be a public place within the meaning of this Act and the regulations. R.S.O. 1950, c. 210, s. 43 (2).

Cancellat-
ion of
permits by
Board

43.—(1) Notwithstanding anything in this Act and the regulations, the Board may, for any cause that it deems sufficient with or without a hearing, cancel or suspend any permit granted for the purchase of liquor under this Act and the regulations.

Suspension
of permit
by justice

(2) The justice before whom a holder of a permit issued under this Act or the regulations is convicted of a contravention of any provision of this Act or of the regulations may suspend the permit for a period not exceeding one month, and thereupon the justice shall forthwith notify the holder and the Board of the suspension of the permit.

Delivery up
of permit on
suspension

(3) Upon receipt of notice of the suspension of his permit, the holder of the permit shall forthwith deliver up the permit to the Board and, if the holder of a permit that has been suspended fails or neglects to deliver it to the Board in accordance with the regulations, the Board may forthwith cancel it.

(4) Where a permit has been suspended, the Board may return the permit to the holder at the expiration or determination of the period of suspension.

Return of
permit on
termina-
tion of
suspension

(5) Where a permit has been cancelled, the Board shall notify all vendors and such other persons as are provided by the regulations of the cancellation of the permit, and the issue of a new permit to the person whose permit has been cancelled is in the discretion of the Board.

Notifying
vendors of
cancellation

(6) Where a permit is produced at a Government store by a person who is not entitled under this Act or the regulations to hold it or produce it at the store, or where a permit is suspended or cancelled, or a permit, a duplicate of which has been issued, is produced at a Government store, the vendor shall retain it in his custody and shall forthwith notify the Board of the fact of its retention, and the Board, unless the permit has been cancelled, may forthwith cancel it, but the proper holder of any lost subsisting permit that is improperly produced as aforesaid may, upon satisfactory proof to the Board that he was not privy to such improper use, obtain a return of it.

Use of per-
mit of other
person or of
a suspended
or cancelled
permit

(7) Notwithstanding anything in this Act and the regulations, where a permit issued for the purchase of liquor under this Act or the regulations is cancelled, all the liquor purchased under it and in the possession of the permit holder at the date of cancellation is *ipso facto* forfeited to Her Majesty in right of Ontario. R.S.O. 1950, c. 210, s. 44.

Forfeiture
of liquor on
cancellation
of permit

44. No permit shall be issued under this Act or the regulations to any person to whom the sale of intoxicants is prohibited under any Act of the Parliament of Canada. R.S.O. 1950, c. 210, s. 45.

Persons to
whom
permits not
to be issued

45. Notwithstanding anything in this Act but subject to section 71, a person may make or receive a *bona fide* gift of liquor,

Gifts of
liquor

- (a) if the donor is in lawful possession of the liquor; and
- (b) if the donee is not a person who is prohibited from possessing or consuming liquor,

and the donee may have, keep, carry, convey or consume liquor received under this section as if he had purchased it in accordance with this Act and the regulations. 1960, c. 59, s. 6, *part.*

46. A person who is entitled to possess or consume liquor may lawfully possess not more than one bottle of spirits or wine or not more than twenty-four pints of beer that was purchased outside Ontario,

Liquor from
outside
Ontario

- (a) if the bottle containing the liquor was purchased outside Canada and has been stamped or marked by a Canadian customs officer; or
- (b) if the liquor was purchased from a liquor board, commission or similar body in any other part of Canada. 1960, c. 59, s. 6, *part*.

**Brewers'
licences**

47.—(1) The Board, with the approval of the Minister and subject to this Act and the regulations, may issue a licence to any brewer duly authorized under any Act of the Parliament of Canada authorizing the brewer or any lawfully appointed agent of the brewer,

- (a) to keep for sale and sell beer to the Board;
- (b) to deliver beer on the order of the Board or of a vendor to any person named in the order at the address therein stated;
- (c) to keep for sale and sell beer under the supervision and control of the Board and in accordance with this Act and the regulations.

**Limitation
as to sale**

(2) No brewer or brewer's agent shall keep for sale, sell or deliver beer except as provided in this Act and the regulations.

Returns

(3) Every brewer shall make to the Board in every month a return in the form that the Board provides showing the gross amount of the sales of beer made by him and his agents, but the Board may at any time by notice in writing to a brewer or brewer's agent require such a return of sales by the brewer or brewer's agent, as the case may be, for any period mentioned in the notice, and such return shall be made within three days of the receipt by the brewer or brewer's agent of the notice. R.S.O. 1950, c. 210, s. 46.

Offence

48. Every brewer who fails to make such returns to the Board within twenty days following the expiration of any calendar month for which it should be made is guilty of an offence and is liable to a fine of \$20 per day for each day it is delayed, counting from the expiration of such twenty days. R.S.O. 1950, c. 210, s. 47.

**Default in
forward-
ing**

49. Every brewer or brewer's agent who makes default in forwarding a return when notified so to do under subsection 3 of section 47 within the time required by the notice given pursuant thereto is guilty of an offence and is liable to a fine of \$20 per day for each day during which the default continues. R.S.O. 1950, c. 210, s. 48, *revised*.

50.—(1) The Board may also examine the books of any brewer or brewer's agent making or required to make any such return, or may otherwise verify the accuracy of any such return. Examination of books

(2) Every brewer or brewer's agent who refuses to allow such examination or who fails to make returns in accordance with the regulations is guilty of an offence and is liable to a fine of \$100 for each offence. Offence R.S.O. 1950, c. 210, s. 49.

51. No premises shall be constructed and equipped so as to facilitate any breach of this Act or the regulations. Construction and equipment of premises R.S.O. 1950, c. 210, s. 50.

52. Every brewer shall, from time to time as he is required by the Board, furnish samples of his beer to be sold in Ontario, and the Board is entitled and is hereby authorized to require of any brewer samples of any beer then being sold in Ontario or in stock by the brewer or that is in the course of manufacture for sale in Ontario, and the brewer shall forthwith furnish such samples to the Board, and every brewer failing to do so is guilty of an offence and is liable to a fine of not more than \$100. Furnishing of samples to Board R.S.O. 1950, c. 210, s. 51.

53.—(1) The Board, with the approval of the Minister and subject to this Act and the regulations, may issue a licence to a distiller authorizing him to keep for sale and sell liquor to the Board or as the Board directs. Licences to distillers to sell to Board

(2) The Board, with the approval of the Lieutenant Governor in Council, may make regulations providing for the returns to be made to the Board by distillers and governing the manner in which liquor may be sold, kept for sale or delivered by distillers. Regulations

(3) No distiller shall keep for sale, sell or deliver liquor except as provided by this Act or the regulations. Sales by distiller R.S.O. 1950, c. 210, s. 52.

54. Every licence issued under this Act or the regulations, unless sooner cancelled or determined, expires at midnight on the 31st day of March next following its issue. Term of licence R.S.O. 1950, c. 210, s. 53.

55. The Board may, for any cause that it deems sufficient with or without a hearing, cancel or suspend any licence issued to a brewer or brewer's agent or to a distiller, in the manner prescribed by the regulations, and all right of the brewer or brewer's agent or distiller to sell or deliver liquor or beer thereunder is cancelled or suspended, as the case may be. Cancellation of brewer's or distiller's licence R.S.O. 1950, c. 210, s. 54.

LIQUOR KEPT AND SOLD UNDER SPECIAL PERMITS

Possession
of alcohol
by druggists

56. Any druggist may have in his possession alcohol purchased by him from a vendor under a special permit pursuant to this Act or the regulations, such alcohol to be used solely in connection with the business of the druggist in compounding medicines or as a solvent or preservative. R.S.O. 1950, c. 210, s. 55.

Sale and
keeping for
sale by
druggist

57. Except as authorized or permitted by this Act or the regulations and in accordance therewith, nothing in this Act or in any Act shall be construed as authorizing or permitting any druggist to have or keep for sale, or by himself or his clerk, servant or agent to sell, any liquor. R.S.O. 1950, c. 210, s. 56.

Physicians

58.—(1) Any physician who is lawfully and regularly engaged in the practice of his profession and who deems liquor necessary for the health of a patient of his whom he has seen or visited professionally may give to such patient a prescription therefor in the prescribed form, signed by the physician and addressed to a vendor, or the physician may administer the liquor to the patient for which purpose the physician shall administer only such liquor as was purchased by him under special permit pursuant to this Act or the regulations, and he may give to any such patient a prescription for liquor not exceeding six ounces, and supply or sell, subject to the regulations, the said liquor to his patient, and may charge for the liquor so administered or sold, but no prescription shall be given nor shall liquor be administered or sold by a physician except to a *bona fide* patient in cases of actual need and when in the judgment of the physician the use of liquor as medicine in the quantity prescribed, administered or sold is necessary.

Giving pre-
scriptions
or adminis-
tering
liquor
illegally

(2) Every physician who gives a prescription or administers or sells any liquor in contravention of this Act or the regulations, or who gives to or writes for any person a prescription for or including liquor for the purpose of enabling or assisting any person to evade any of the provisions of this Act or the regulations, or for the purpose of enabling or assisting any person to obtain liquor to be used as a beverage, or to be sold or disposed of in any manner in contravention of this Act or the regulations, is guilty of an offence. R.S.O. 1950, c. 210, s. 57.

Sale of
liquor by
vendors on
prescription

59.—(1) A vendor may upon the prescription of a physician sell and supply for strictly medicinal purposes,

- (a) beer in quantities of not more than one dozen bottles, containing not more than three half-pints each or a quantity equivalent thereto at any one time;

- (b) wines and distilled liquor not exceeding one quart at any one time;
- (c) alcohol for rubbing or other necessary purposes not exceeding one pint at any one time.

(2) Every prescription issued under section 58 shall contain ^{Idem} a certificate that the quantity of liquor therein mentioned is the minimum quantity necessary for the patient for whom it is ordered.

(3) No more than one sale and one delivery shall be made ^{Idem} on any one prescription.

(4) Any contravention of this section is an offence. R.S.O. ^{Offence} 1950, c. 210, s. 58.

60. Any dentist who deems it necessary that a patient ^{Dentists} being then under treatment by him should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor purchased by him under special permit pursuant to this Act or the regulations and may charge for the liquor so administered, but no liquor shall be administered by a dentist except to a *bona fide* patient in case of actual need, and every dentist who administers liquor in evasion or contravention of this Act or the regulations is guilty of an offence. R.S.O. 1950, c. 210, s. 59.

61. Any veterinary who deems it necessary may in the <sup>Veterinary
surgeons</sup> course of his practice administer or cause to be administered liquor to any dumb animal, and for that purpose the veterinary shall administer or cause to be administered liquor purchased by him under special permit pursuant to this Act or the regulations, and may charge for the liquor so administered or caused to be administered, but no veterinary shall himself consume nor shall he give to or permit any person to consume as a beverage any liquor so purchased, and every veterinary who contravenes or suffers or permits any contravention of this section is guilty of an offence. R.S.O. 1950, c. 210, s. 60.

62. Any person in charge of an institution regularly con- <sup>Hospitals,
etc.</sup> ducted as a hospital or sanitarium for the care of persons in ill-health, or as a home devoted exclusively to the care of aged people, may, if he holds a special permit under this Act or the regulations for that purpose, administer liquor purchased by him under his special permit to any patient or inmate of the institution who is in need of it, either by way of external application or otherwise for emergency medicinal purposes, and may charge for the liquor so administered, but no liquor

shall be administered by any person under this section except to *bona fide* patients or inmates of the institution of which he is in charge and in cases of actual need, and every person in charge of an institution or employed therein who administers liquor in contravention of this Act or the regulations is guilty of an offence. R.S.O. 1950, c. 210, s. 61.

APPLICATION OF ACT

Federal
licences

63.—(1) Nothing in this Act prevents any brewer, distiller or other person duly licensed under any Act of the Parliament of Canada for the manufacture of liquor from having or keeping liquor in a place and in the manner authorized by or under any such Act.

Sales to
Board

(2) Nothing in this Act prevents,

- (a) the sale of liquor by any person to the Board;
- (b) the purchase, importation and sale of liquor by the Board for the purposes of and in accordance with this Act and the regulations. R.S.O. 1950, c. 210, s. 62.

Patent or
proprietary
medicines

64. Except as otherwise provided by this Act or the regulations, a druggist or manufacturer of patent or proprietary medicine may sell such medicine in the original and unbroken package if such medicine contains sufficient medication to prevent its use as an alcoholic beverage. R.S.O. 1950, c. 210, s. 63.

Certain
tinctures,
medicines,
perfumes,
etc.

65.—(1) Except as otherwise expressly provided by this Act or the regulations, nothing in this Act prevents the sale,

- (a) by a druggist or by the manufacturer of,
 - (i) any tincture, fluid extract, essence or medicated spirit containing alcohol prepared according to a formula of the British Pharmacopoeia or other recognized standard work on pharmacy, or
 - (ii) medicine or other similar officinal or pharmaceutical compound or preparation, or
 - (iii) a perfume, lotion, toilet water or other similar preparation, or
 - (iv) for purely medicinal purposes, any mixture so prepared containing alcohol and other drugs or medicine; nor
- (b) by a merchant who deals in drugs and medicines, of such compounds, mixtures and preparations as are in this section hereinbefore mentioned and are so made or put up by a druggist or manufacturer,

by reason only that the same contain alcohol, but this only applies to any such compound, mixture and preparation as contains sufficient medication to prevent its use as an alcoholic beverage.

(2) If in a prosecution for selling a product mentioned in section 64, or this section, the justice hearing the complaint is of opinion that an unreasonable quantity of any such product, having regard to the purposes for which it was legitimately manufactured, was sold or otherwise disposed of to any person either at one time or at intervals and proof is also given that it was used for beverage purposes, the person selling or otherwise disposing of it may be convicted of an offence under subsection 1 of section 70. R.S.O. 1950, c. 210, s. 64.

Unreasonable quantity

66.—(1) Every person who obtains or consumes for beverage purposes any of the products mentioned in section 64 or 65 or any preparation containing alcohol that has been denatured in accordance with the *Excise Act* (Canada) and the regulations made thereunder is guilty of an offence and liable to the penalties prescribed by subsection 4 of section 106. R.S.O. 1950, c. 210, s. 65 (1).

Penalty for using certain products as beverages

R.S.O. 1952, c. 99

(2) Except as otherwise expressly provided in this Act or the regulations, no person shall have in his possession, sell or keep for sale any compound, mixture or preparation, whether in solid or liquid form, to which the addition of water or any other liquid or any substance will produce liquor. R.S.O. 1950, c. 210, s. 65 (2); 1958, c. 52, s. 3.

Sale of alcoholic compounds prohibited

67.—(1) Where the justice before whom an information is heard finds that any patent or proprietary medicine mentioned or referred to in section 64 or any other medicine, preparation or mixture mentioned or referred to in section 65 does not contain sufficient medication to prevent it being used as an alcoholic beverage, the offender is liable to the penalties that may be imposed in the case of sale of liquor contrary to subsection 1 of section 70.

Colourable sales

(2) It is not necessary in the information, summons, warrant, distress warrant, commitment or other process or proceeding, except the finding or judgment, to set out that such patent or other medicine, preparation or mixture does not contain sufficient medication to prevent it being used as an alcoholic beverage, but it is sufficient if the information and all other necessary statements of the offence allege or refer to the sale of liquor in contravention of this Act. R.S.O. 1950, c. 210, s. 66 (1, 2).

Charging the offence

Analysis of
patent or
proprietary
medicines

(3) The Department of Health, on complaint being made to it that any patent or proprietary medicine or other medicine, preparation or mixture is believed not to contain sufficient medication to prevent its use as an alcoholic beverage, may cause an analysis of such patent or proprietary medicine or other medicine, preparation or mixture to be made by some competent person, and, if it be proved to the satisfaction of the Department that such patent or proprietary medicine or other medicine, preparation or mixture contains alcohol and that the medication found therein is not sufficient to prevent its use as an alcoholic beverage, the Department shall certify accordingly, and such certificate signed or purporting to be signed by the Minister or Deputy Minister of Health is conclusive evidence of such insufficiency of medication in all subsequent proceedings until the manufacturer of such patent or proprietary medicine or other medicine, preparation or mixture demonstrates to the satisfaction of the Department that sufficient medication to prevent its use as an alcoholic beverage is contained in such patent or proprietary medicine or other medicine, preparation or mixture, and the Department so certifies. R.S.O. 1950, c. 210, s. 66 (3); 1958, c. 52, s. 4.

Sale after
report of
Department
against
preparation
analysis

(4) If the Department should find and certify by certificate signed or purported to be signed as provided by subsection 3 that the patent or proprietary medicine or other medicine, preparation or mixture contains any medication that, owing to the alcoholic properties of such patent or proprietary medicine or other medicine, preparation or mixture, would be liable to be taken in quantities injurious to health, the sale of such patent or proprietary medicine or other medicine, preparation or mixture, after a copy of such certificate has been published in two consecutive issues of *The Ontario Gazette*, is an offence, and any person on conviction therefor is liable to the penalties provided by subsection 1 of section 107, unless the same has been so sold upon the written order of a medical practitioner.

Right to be
heard by
Depart-
ment

(5) On any inquiry under this section, any interested party may be heard either personally, or by counsel or solicitor, by the Department before any certificate is issued. R.S.O. 1950, c. 210, s. 66 (4, 5).

Analysis of
patent medi-
cines kept
by druggist

68.—(1) A druggist or other person who keeps patent or proprietary medicines for sale shall, upon request made by the inspector or other person authorized by the Board, permit the inspector or other person to take away a sample sufficient for the purpose of analysis of any patent or proprietary medicine kept by him for sale.

Offence

(2) Every person who refuses to comply with such a request is guilty of an offence and liable to a fine of not less than \$10 and not more than \$40. R.S.O. 1950, c. 210, s. 67.

69.—(1) Every brewer shall, on all beer manufactured and bottled by him for sale or consumption in Ontario, place a crown cork stopper or other stopper showing thereon by embossing or lithographing on the outside thereof the name of the brewer and such other information as to the contents or otherwise as the Board from time to time requires and shall also cause the same information to be branded in or labelled on all casks, barrels, kegs or other vessels containing such beer as the Board determines. Brewer's marks

(2) Every brewer who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine of \$2,000. R.S.O. 1950, c. 210, s. 68. Offence

PROHIBITIONS, INTERDICTION, PENALTIES AND PROCEDURE IN PROSECUTIONS AND ON APPEAL

70.—(1) Except as provided by this Act, *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall by himself, his clerk, servant or agent, expose, or keep for sale, or directly or indirectly or upon any pretence, or upon any device, sell or offer to sell, liquor or, in consideration of the purchase or transfer of any property, or for any other consideration, or at the time of the transfer of any property, give liquor to any other person. R.S.O. 1950, c. 210, s. 69 (1); 1953, c. 57, s. 4. Selling, etc. liquor otherwise than under Act R.S.O. 1960, c. 218

(2) Except as expressly provided by this Act or the regulations, no person shall have or keep any liquor that has not been purchased from a Government vendor or from a physician as provided by section 58. Possession

(3) Subsection 2 does not apply to the Board nor to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures or preparations where such having or keeping is authorized by this Act or the regulations. Exceptions

(4) Nothing in this section applies to the possession by a sheriff or his bailiff of liquor seized under execution or other judicial or extra-judicial process nor to sales under executions or other judicial or extra-judicial process to the Board. R.S.O. 1950, c. 210, s. 69 (2-4). Liquor taken under judicial process

71. No brewer, distiller or manufacturer of liquor shall in Ontario, by himself, his clerk, servant or agent, give any liquor to any person, except as is permitted by and in accordance with the regulations. R.S.O. 1950, c. 210, s. 70. Brewers, etc., giving liquor

72.—(1) No person authorized to sell liquor in accordance with this Act or the regulations, and no clerk, servant or agent of such person, shall sell or furnish liquor in any other place Sale by vendors and other officials

or at any other time or otherwise than as authorized by this Act or the regulations.

Permit
issuers

(2) No official or person authorized to issue permits under this Act or the regulations shall issue to any one individual more than one permit for the purchase of liquor under this Act or the regulations.

False and
fictitious
permits

(3) No person authorized to issue permits under this Act or the regulations shall issue a permit,

- (a) to any person who is disqualified under this Act or regulations to make application for such permit;
- (b) to any person furnishing any false or fictitious particulars in his application for such permit.

Furnishing
liquor on
illegal
permit

(4) No person authorized to sell liquor in accordance with this Act or the regulations, and no clerk, servant or agent of such person, shall sell or furnish liquor to any permit holder whose permit has not been acquired in accordance with this Act or the regulations. R.S.O. 1950, c. 210, s. 71.

Permit
not to be
issued to
minor

73.—(1) No person authorized to issue permits under this Act or the regulations shall knowingly issue a permit to any person under the age of twenty-one years.

Minor not
to apply
for permit

(2) No person under the age of twenty-one years shall apply for or obtain a permit. R.S.O. 1950, c. 210, s. 72.

Adulter-
ated liquor
sold under
licence

74. No holder of a licence under this Act or the regulations, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any liquor kept for sale, sold or supplied by him as a beverage any drug or any form of methylic alcohol or any crude, unrectified or impure form of ethylic alcohol or any other deleterious substance or liquid. R.S.O. 1950, c. 210, s. 73.

Interest in
liquor busi-
ness for-
bidden

75.—(1) No member or employee of the Board shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employee and whether for his own benefit or in a fiduciary capacity for some other person. R.S.O. 1950, c. 210, s. 74 (1).

Taking
improper
commis-
sions

(2) No member or employee of the Board or any employee of the Government shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person having sold, selling or offering liquor for sale to the Board in pursuance of this Act or the regulations. R.S.O. 1950, c. 210, s. 74 (2), *amended*.

(3) No person selling or offering for sale to or purchasing liquor from the Government or the Board shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift, to any member or employee of the Board or to any employee of the Government or to anyone on behalf of such member or employee. R.S.O. 1950, c. 210, s. 74 (3). Offering commissions, etc.

76. Except as provided by this Act or the regulations, no person shall by himself, his clerk, servant or agent attempt to purchase, or directly or indirectly or upon any pretence or upon any device purchase, or in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, take or accept any liquor from any other person. R.S.O. 1950, c. 210, s. 75. Taking liquor unlawfully disposed of

77. Except as provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall consume liquor on any premises where liquor is kept for sale. R.S.O. 1950, c. 210, s. 76. Where consumption of liquor prohibited
R.S.O. 1960, c. 218

78. Except as provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall consume liquor unless the liquor has been acquired under the authority of a permit or prescription issued under this Act or the regulations, or is had or kept with the permission of the Board, and unless the package in which the liquor is contained and from which it is taken for consumption has, while containing that liquor, been sealed with the official seal prescribed by this Act or the regulations. R.S.O. 1950, c. 210, s. 77. Liquor which may be consumed

79.—(1) Except in the case of, Liquor to be sealed

- (a) liquor imported by the Government or by the Board; or
- (b) sacramental or other wines used for religious purposes; or
- (c) liquor had or kept under section 63,

no liquor shall be kept or had by any person in Ontario unless the package, not including a decanter or other receptacle containing the liquor for immediate consumption, in which the liquor is contained is, while containing that liquor, sealed with the official seal prescribed by this Act or the regulations.

(2) Any constable or other police officer who finds liquor that in his opinion is had or kept by any person in contravention of this Act or the regulations may, without laying an information or obtaining a warrant, forthwith seize and remove the liquor and the packages in which it is kept and, upon conviction of the person for a contravention of any provision of Seizure of liquor without warrant

this section, the liquor and all packages containing it, in addition to any other penalty prescribed by this Act, are *ipso facto* forfeited to Her Majesty in right of Ontario. R.S.O. 1950, c. 210, s. 78.

Consumption elsewhere than in residence

80.—(1) Except as expressly provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall consume liquor in any place other than a residence.

Drunkenness in public places

(2) No person shall be in an intoxicated condition in a public place. R.S.O. 1950, c. 210, s. 79.

Sale of liquor to drunken person

81. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person under or apparently under the influence of liquor. R.S.O. 1950, c. 210, s. 80.

Minors

82.—(1) No person shall knowingly sell or supply liquor to a person under the age of twenty-one years. R.S.O. 1950, c. 210, s. 81 (1).

Idem

(2) No liquor shall be sold or supplied to a person who is apparently under the age of twenty-one years, and, in any prosecution for a contravention of this subsection, the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of twenty-one years. R.S.O. 1950, c. 210, s. 81 (2); 1960, c. 59, s. 7 (1).

Minor prohibited from purchasing liquor

(3) No person under the age of twenty-one years shall consume, apply for, attempt to purchase, purchase or otherwise obtain liquor. R.S.O. 1950, c. 210, s. 81 (3); 1960, c. 59, s. 7 (2).

Application of section

(4) This section does not apply to the supplying of liquor to a person under the age of twenty-one years for medicinal purposes only by the parent or guardian of such person, or to the administering of liquor to such person by a physician or as provided by this Act or the regulations. R.S.O. 1950, c. 210, s. 81 (4).

Supply of liquor to person whose permit is suspended

83. Except in the case of liquor administered by a physician or dentist or sold upon a prescription in accordance with this Act or the regulations, no person shall procure or supply or assist directly or indirectly in procuring or supplying liquor for or to any person whose permit is suspended or cancelled. R.S.O. 1950, c. 210, s. 82.

Board may prohibit purchase etc.

84.—(1) Notwithstanding anything in this Act or the regulations, the Board may by order signed by the Chief Commissioner or the Deputy Chief Commissioner prohibit any

person from purchasing, having, giving or consuming any liquor, including beer and wine, and any such person who contravenes such order is guilty of an offence.

(2) Notwithstanding anything in this Act or the regulations, where any order is made against a person under subsection 1, all liquor and original liquor containers in his possession or under seizure at the date of the order are *ipso facto* forfeited to Her Majesty in right of Ontario.

Forfeiture
of liquor and
containers

(3) The Board may by order signed by the Chief Commissioner or the Deputy Chief Commissioner prohibit a vendor, brewer, brewers' agent, producer of Ontario wine, holder of a licence under *The Liquor Licence Act* or other person from supplying either directly or indirectly liquor, including beer and wine, to any person against whom an order has been issued pursuant to subsection 1 and any such vendor, brewer, brewers' agent, producer of Ontario wine, holder of a licence under *The Liquor Licence Act* or other person who knowingly contravenes any such order is guilty of an offence.

Board may
prohibit
supplying
R.S.O. 1960,
c. 218

(4) The Board may by order signed by the Chief Commissioner or the Deputy Chief Commissioner prescribe the kinds and quantities of liquor, including beer and wine, that may be sold to any person by a vendor, brewer, brewers' agent, producer of Ontario wine, holder of a licence under *The Liquor Licence Act* or other person under this Act or the regulations, and any person who knowingly contravenes the provisions of any such order is guilty of an offence.

Board may
prescribe

(5) Service of the orders of the Board mentioned in subsections 1, 3 and 4 is effective if forwarded by registered mail to the last known address of the person against whom the order is made. R.S.O. 1950, c. 210, s. 83.

Service of
order

85. Except in the case of liquor supplied to an interdicted person upon the prescription of a physician or administered to him by a physician or dentist pursuant to this Act or the regulations, no person shall knowingly procure for, sell or give any liquor to an interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to an interdicted person. R.S.O. 1950, c. 210, s. 84.

Supply of
liquor to
interdicted
person

86. No permit shall be issued to an interdicted person, and every interdicted person who makes application for a permit, or who enters or is found upon the premises of a Government store, is guilty of an offence. R.S.O. 1950, c. 210, s. 85.

Permits and
interdicted
persons

87.—(1) Subject to subsection 2, no person whose permit is suspended or cancelled shall during the period of suspension or after cancellation hold, possess or make application for another permit under this Act or the regulations.

Fresh
application

Exception

(2) Subsection 1 does not create an offence for a person whose permit is suspended or cancelled making application to the Board for return of such suspended permit or issue of a new permit. R.S.O. 1950, c. 210, s. 86.

Purchase under suspended permit

88.—(1) No person shall purchase or attempt to purchase liquor under a permit that is suspended or that has been cancelled or of which he is not the holder.

Applying for permit in false name

(2) No person shall apply in a name other than his own for the issue to him of a permit authorizing the purchase of liquor.

False address

(3) No person shall furnish a wrong or fictitious address in applying for the issue to him of a permit authorizing the purchase of liquor.

Possession of false or fictitious permit

(4) Except as provided by this Act or the regulations, no person shall have or keep in his possession a false or fictitious permit purporting to authorize the purchase of liquor, or a permit of which he is not the holder. R.S.O. 1950, c. 210, s. 87.

Permitting drunkenness

89. No person shall,

- (a) permit drunkenness to take place in any house or on any premises of which he is the owner, tenant or occupant; or
- (b) permit or suffer a person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first-named person is owner, tenant or occupant; or
- (c) give any liquor to a person apparently under the influence of liquor. R.S.O. 1950, c. 210, s. 88.

Having liquor without permit
R.S.O. 1960, c. 218

90.—(1) Except as authorized by this Act or *The Liquor Licence Act*, no person, not holding a permit under this Act or the regulations entitling him so to do, shall have any liquor in his possession.

Possession of liquor on permit

(2) The holder of an individual permit may have in his possession or consume in his residence only the liquor had and acquired by him under his individual permit or otherwise under this Act or the regulations and in accordance therewith.

Illegal possession

(3) No person shall have in his possession or consume in his residence any liquor that has not been had or acquired by him under his individual permit or otherwise under this Act or the regulations and in accordance therewith. R.S.O. 1950, c. 210, s. 89 (1-3).

91.—(1) Except as provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder and except in the case of liquor kept and consumed pursuant to a special permit granted under section 37, no person,

Hotels
R.S.O. 1960,
c. 218

(a) shall keep or consume liquor in any part of an hotel other than a private guest room;

(b) shall keep or have any liquor in any room in an hotel unless he is a *bona fide* guest of the hotel and is duly registered in the office of the hotel as an occupant of that room and has baggage and personal effects belonging to him in the hotel.

(2) The Board upon the application of the owner or proprietor of an hotel may declare the hotel, or any designated part thereof, to be a public place for the purposes of this Act and the regulations and may grant a certificate to such effect signed by the Chief Commissioner or Deputy Chief Commissioner to the owner or proprietor.

Application
by hotel
owner

(3) From the date of the granting of such certificate, the hotel, or the designated part thereof, is a public place for the purposes of this Act and the regulations and subsection 1 does not apply to the hotel or the designated part thereof.

Hotel
declared
a public
place

(4) Upon the application of the owner or proprietor of an hotel to whom such a certificate has been granted, the Board may at any time cancel it, and from the date of cancellation the hotel, or the designated part, for the purposes of this Act and the regulations, ceases to be a public place and subsection 1 applies to the hotel or the designated part.

Cancellation
of
certificate

(5) If the owner or proprietor of an hotel, or his clerk, servant or agent, finds an individual permit on the hotel premises, or any part thereof, he shall deliver it within twenty-four hours to the nearest vendor for transmission to the Board.
R.S.O. 1950, c. 210, s. 90.

Duty of
hotel
proprietor

92. No person shall directly or indirectly hold himself out or act as an agent or representative of a distiller, brewer or a producer of wine or Ontario wine unless he is registered with the Board as an agent or representative of such distiller, brewer or producer. 1960, c. 59, s. 9.

Represent-
atives to be
registered

93.—(1) Except as permitted by this Act or the regulations, no person shall,

Canvassing
for orders
etc.

(a) canvass for, receive, take or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor, or hold himself out as such agent or intermediary;

- (b) exhibit or display, or permit to be exhibited or displayed, any sign or poster containing the words "bar", "bar-room", "saloon", "spirits" or "liquors", or words of like import;
- (c) exhibit or display, or permit to be exhibited or displayed, any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device, or on any hoarding, sign-board, billboard or other place in public view, or by any of the means aforesaid, advertise any liquor.

Approved
adver-
tising

(2) This section does not apply to any advertisement respecting liquor in premises where the liquor may be lawfully stored, kept or sold under this Act or the regulations, if the advertisement has first been permitted in writing by the Board and then subject to such permission and the directions of the Board.

Adver-
tising

(3) No person, unless authorized by the Board, shall exhibit, publish or display or permit to be exhibited, published or displayed any other advertisement, or form of advertisement, or any other announcement, publication or price list of or concerning liquor or where or from whom the liquor may be had, obtained or purchased.

Exception

(4) This section does not apply,

- (a) to the Board or any Government store; or
- (b) to the receipt of transmission of a telegram or letter by any telegraph agent or operator or post office employee in the ordinary course of his employment as such agent, operator or employee. R.S.O. 1950, c. 210, s. 91, *amended*.

Offence

94. Every person who, without lawful excuse, is found in any premises at the time of the commission upon such premises of any offence against or contravention of any of the provisions of this Act is guilty of an offence. R.S.O. 1950, c. 210, s. 92.

Labels, etc,
for beer or
liquor

95. Every person manufacturing or brewing beer shall put upon all bottles containing beer so manufactured or brewed for sale in Ontario a distinctive label showing the nature of the contents, the name of the person by whom the beer was manufactured or brewed, and the place where the beer was brewed, and shall show clearly on all barrels or other receptacles containing beer so manufactured or brewed, whether bottled or otherwise, the nature of the contents, the name of the person by whom the beer was manufactured or brewed, and the place where the beer was brewed, and, for the purposes of

this section, the contents of bottles, barrels and other receptacles containing beer shall be shown by the use of the word "beer", "ale", "stout" or "porter" on the outside of all bottles, barrels and other receptacles. R.S.O. 1950, c. 210, s. 93.

96.—(1) Subject to this Act and the regulations and to any restrictions that the Board imposes, producers of Ontario wines may keep and offer for sale, sell and deliver such wines in such quantities as are permitted by the Board. Sale of Ontario wine

(2) A producer of Ontario wines shall not sell such wines otherwise than as permitted by this Act or the regulations or allow any wine so sold, or any part thereof, to be drunk upon the premises of such producer. R.S.O. 1950, c. 210, s. 94. Sales prohibited

97.—(1) Where it is made to appear to the satisfaction of a judge of the county or district court that a person, resident or sojourning in Ontario, by excessive drinking of liquor, misspends, wastes or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the judge may make an order of interdiction directing the cancellation of any permit held by that person and prohibiting the sale of liquor to him until further ordered, and the judge shall cause the order to be forthwith filed with the Board. Order of interdiction

(2) Every interdicted person keeping or having in his possession or under his control or consuming any liquor is guilty of an offence, and the justice making the conviction may in and by the conviction declare the liquor and all packages in which the liquor is contained forfeited to Her Majesty in right of Ontario. R.S.O. 1950, c. 210, s. 95. Disregard of order

98. Upon an order of interdiction being made, the interdicted person shall deliver forthwith to the Board all liquor in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or, at the option of the Board, such liquor may be purchased from him at a price to be fixed by the Board. R.S.O. 1950, c. 210, s. 96. Delivery of liquor to Board on interdiction

99. Upon receipt of the order of interdiction, the Board shall cancel any permit held by the interdicted person and shall notify the interdicted person and all vendors, and such other persons as are provided by the regulations, of the cancellation of the permit and of the order of interdiction so made and filed prohibiting the sale of liquor to the interdicted person. R.S.O. 1950, c. 210, s. 97. Cancellation of permit

100.—(1) Upon an application to the judge by a person in respect of whom an order of interdiction has been made and upon it being made to appear to the satisfaction of the Revocation of order

judge that the circumstances of the case did not warrant the making of the order of interdiction or upon proof that the interdicted person has refrained from drunkenness for at least twelve months immediately preceding the application, the judge may by order set aside the order of interdiction filed with the Board, and the interdicted person may be restored to all his rights under this Act and the regulations, and the Board shall accordingly forthwith notify all vendors and such other persons as are provided by the regulations.

Notice of
application

(2) The applicant shall, at least ten clear days before the application, give notice thereof to the Board, in writing served upon the Board, and to such other persons as the judge directs. R.S.O. 1950, c. 210, s. 98.

Contraven-
tions of Act
to be
offences

101. Every person who contravenes any provision of this Act or the regulations is guilty of an offence against this Act, whether so declared or not. R.S.O. 1950, c. 210, s. 99; 1957, c. 61, s. 3.

First offence

102. A contravention of this Act or the regulations by a person shall be charged as a first offence notwithstanding that he has been previously convicted of an offence against this Act or the regulations, but such contravention by such person shall be charged as a first offence only if the previous conviction occurred more than one year before the date of such contravention. R.S.O. 1950, c. 210, s. 100.

Brewers
and
distillers

103. Every brewer, distiller or manufacturer who is convicted of keeping for sale or selling liquors by himself, or by his clerk, servant, agent or employee, contrary to this Act or the regulations is guilty of an offence and liable to a fine of \$5,000. R.S.O. 1950, c. 210, s. 101.

Penalties,
s. 72 (1)

104.—(1) Every person who contravenes any of the provisions of subsection 1 of section 72 is guilty of an offence and shall for a first offence be imprisoned for not more than six months and for a second or subsequent offence be imprisoned for not more than twelve months.

Idem,
s. 72 (2-4)

(2) Every person who knowingly contravenes any of the provisions of subsection 2, 3 or 4 of section 72 is guilty of an offence and shall be imprisoned for not less than six months and not more than twelve months.

Idem, s. 75

(3) Every person who contravenes any of the provisions of section 75 is guilty of an offence and shall be imprisoned for not more than twelve months. R.S.O. 1950, c. 210, s. 102.

105. Every person who contravenes any provision of subsection 1 of section 82 or section 85 is guilty of an offence and shall for the first offence be imprisoned for not less than one month and not more than three months, and for a second or subsequent offence shall be imprisoned for not less than four months and not more than twelve months. R.S.O. 1950, c. 210, s. 103. ^{Penalties, ss. 82 (1), 85}

106.—(1) Every person who contravenes any of the provisions of subsection 1 of section 70 is guilty of an offence and shall for a first offence be imprisoned for not less than two months and not more than six months, and for a second or subsequent offence shall be imprisoned for six months. ^{Penalties, s. 70 (1)}

(2) Every person who contravenes any of the provisions of section 74 is guilty of an offence and shall for a first offence be imprisoned for not less than six months and not more than one year, and for a second or subsequent offence shall be imprisoned for not less than one year. ^{Idem, s. 74}

(3) Every person who contravenes any of the provisions of subsection 2 of section 73 or subsection 2 or 3 of section 82 is guilty of an offence and liable for a first offence to a fine of not less than \$10 and not more than \$500, and in default of immediate payment shall be imprisoned for a term of not more than two months, or to imprisonment for a term of not more than thirty days, or to both fine and imprisonment, and for a second or subsequent offence to imprisonment for a term of not more than three months. R.S.O. 1950, c. 210, s. 104 (1-3). ^{Idem, ss. 73 (2), 82 (2, 3)}

(4) Every person who contravenes any of the provisions of section 83, 88 or 93 is guilty of an offence and liable for a first offence to a fine of not less than \$100 and not more than \$1,000, and in default of immediate payment shall be imprisoned for a term of three months, and for a second or subsequent offence to imprisonment for three months. R.S.O. 1950, c. 210, s. 104 (4); 1960, c. 59, s. 10. ^{Idem, ss. 83, 88, 93}

(5) Every person who contravenes any of the provisions of section 42 is guilty of an offence and liable for a first offence to a fine of not less than \$10 and not more than \$1,000, and in default of immediate payment shall be imprisoned for a term of one month, and for a second or subsequent offence to imprisonment for three months. ^{Idem, s. 42}

(6) If the offender convicted of an offence referred to in this section is a corporation, it is liable to a fine of not less than \$1,000 and not more than \$3,000. ^{Corporations}

(7) Every person who contravenes subsection 2 of section 80 is guilty of an offence and liable for a first offence to a fine of not less than \$10 and not more than \$50, and in default of ^{Penalties, s. 80 (2)}

immediate payment to imprisonment for not more than thirty days, for a second offence to a fine of not less than \$50 and not more than \$100, and in default of immediate payment to imprisonment for not less than one month and not more than two months, and for a third or subsequent offence to imprisonment for not less than three months and not more than six months without the option of a fine. R.S.O. 1950, c. 210, s. 104 (5-7).

General
penalty

107.—(1) Every person guilty of an offence against this Act for which no penalty has been specifically provided is liable for a first offence to a fine of not less than \$10 and not more than \$500, and in default of immediate payment to imprisonment for not more than thirty days, for a second offence to imprisonment for not less than one month and not more than two months, or to a fine of not less than \$200 and not more than \$1,000, and in default of immediate payment to imprisonment for not less than two months and not more than four months, and for a third or subsequent offence to imprisonment for not less than three months and not more than six months without the option of a fine.

Corpora-
tions

(2) If the offender convicted of an offence referred to in this section is a corporation, it is for a first offence liable to a fine of not less than \$1,000 and not more than \$2,000, and for a second or subsequent offence to a fine of not less than \$2,000 and not more than \$3,000. R.S.O. 1950, c. 210, s. 105 (1, 2).

Recovery of
fines
from cor-
porations by
distress

108.—(1) Where a corporation is convicted of an offence under this Act or the regulations and the conviction adjudges a pecuniary penalty or compensation to be paid by the corporation, or an order under this Act requires the payment of a sum of money by a corporation, the court, judge or justice, by his or their conviction or order, after adjudging payment of such penalty, compensation or sum of money with costs, may order and adjudge that, in default of payment of such penalty, compensation or sum of money forthwith or within a limited time, such penalty, compensation or sum of money shall be levied by distress and sale of the goods and chattels of the corporation.

Enforcing
judgment
against cor-
poration

(2) In any such case and in addition to the other remedies provided hereby, a copy of such conviction or order certified to by a judge or justice, or by the officer in whose custody the same is by law required to be kept, may be filed in the proper county or district court, and such conviction or order thereupon becomes a judgment of such court and all proceedings may be thereupon taken and had as on any other judgment of such court.

(3) In the case of the conviction of or an order against a corporation that by the law of Ontario is required to obtain a licence to carry on its business in Ontario and has obtained such licence, if the penalty, compensation or sum of money is not paid according to the terms of the conviction or order, the Lieutenant Governor in Council may, in case of such default in payment of penalty, compensation or sum of money as aforesaid, cancel and revoke the licence so issued to the corporation.

Cancellation of licence of corporation

(4) Nothing in this section shall be construed as in any way affecting, limiting or restricting any proceedings that otherwise can or may be taken or had for the infliction of punishment by fine or imprisonment or the modes of enforcement or recovery of fines or other penalties.

Application of section

(5) Notwithstanding anything in this Act, where a pecuniary penalty is imposed, the justice may in his discretion order that in default of payment of the penalty distress shall issue for the recovery thereof or he may if he sees fit order that in default of immediate payment of the penalty the offender shall be committed to jail for such term as is allowed by law. R.S.O. 1950, c. 210, s. 106.

Power to issue distress on non-payment of penalty

109. Where an offence against this Act or the regulations is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offence is committed shall *prima facie* be deemed to be a party to the offence so committed and is personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor. R.S.O. 1950, c. 210, s. 107.

Offence by corporation

110.—(1) Upon information on oath by a constable or other police officer that he suspects or believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any building or premises, it is lawful for a justice or justice of the peace by warrant under his hand to authorize and empower the constable or other person named therein to enter and search the building or premises and every part thereof, and for that purpose to break open any door, lock or fastening of the building or premises, or any part thereof, or any closet, cupboard, box or other receptacle therein that might contain liquor.

Search with warrant

(2) It is not necessary for the constable or other police officer to set out in the information any reason or grounds for his suspicion or belief.

Reasons for suspicion need not be set out

Search
without
warrant

(3) Any constable or other police officer who is authorized in writing for the purpose by the Commissioner of Police for Ontario, if he believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any building or premises, may without warrant enter and search the building or premises and every part thereof, and for that purpose may break open any door, lock or fastening of the building or premises, or any part thereof, or any closet, cupboard, box or other receptacle therein that might contain liquor, and such authority is a general one and is effective until revoked.

Seizure of
permit, etc.
without
warrant
R.S.O. 1960,
c. 218

(4) Any constable or other police officer may, without a warrant, seize from a person or corporation any permit or licence issued under this Act or under *The Liquor Licence Act* or the regulations made hereunder or thereunder. R.S.O. 1950, c. 210, s. 109.

Arrest
without
warrant

111. Any constable or other police officer may arrest without warrant a person whom he finds committing an offence against this Act or the regulations. R.S.O. 1950, c. 210, s. 110.

Search of
vehicles
without
warrant

112. Any constable or other police officer, if he believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and is contained in a vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description, or is unlawfully kept or had, or kept or had for unlawful purposes, on the lands or person of any person, has power without warrant to search for such liquor wherever he suspects it to be, and if need be, by force, and may search the person himself, and may seize and remove any liquor found and the packages in which it is kept. R.S.O. 1950, c. 210, s. 111.

Search
warrant
may be
executed at
any time

113. Notwithstanding anything in this Act or the regulations, any search warrant or authorization to search issued or authorized under this Act may be executed at any time, including Sunday or other holiday, and by day or night. R.S.O. 1950, c. 210, s. 112.

Penalty

114. Where the constable or other police officer in making or attempting to make a search under or in pursuance of the authority conferred by section 110 or 112 finds in any building or place liquor that in his opinion is unlawfully kept or had, or kept or had for unlawful purposes, contrary to any of the provisions of this Act or the regulations, he may forthwith seize and remove the liquor and the packages in which the liquor is kept, and may seize and remove any book, paper or thing found in the building or place that in his opinion will

afford evidence as to the commission of an offence against this Act or the regulations, and, upon the conviction of the occupant of such building or place or any other person for keeping the liquor contrary to this Act or the regulations in such building or place, the justice making the conviction shall in and by the conviction declare the liquor and packages or any part thereof forfeited to Her Majesty in right of Ontario. R.S.O. 1950, c. 210, s. 113.

115. Where the constable or other police officer in making ^{Seizure and forfeiture of liquor and vehicles, etc.} or attempting to make a search under or in pursuance of the authority conferred by section 112 finds in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description liquor that in his opinion is unlawfully kept or had, or kept or had for unlawful purposes contrary to any of the provisions of this Act or the regulations, he may forthwith seize the liquor and the packages in which it is contained, and the vehicle, motor car, automobile, vessel, boat, canoe or conveyance in which the liquor is so found, and, upon the conviction of the occupant or person in charge of the vehicle, motor car, automobile, vessel, boat, canoe or conveyance or of any other person for having or keeping the liquor contrary to this Act or the regulations in such vehicle, motor car, automobile, vessel, boat, canoe or conveyance, the justice making the conviction may in and by the conviction declare the liquor or any part thereof so seized and the packages in which the liquor is contained forfeited to Her Majesty, and the justice may in and by the conviction further declare the vehicle, motor car, automobile, vessel, boat, canoe or conveyance so seized forfeited to Her Majesty in right of Ontario. R.S.O. 1950, c. 210, s. 114.

116.—(1) Where liquor is found by a constable or other ^{Impounding and forfeiture of vehicles, etc.} police officer on any premises or in any place or in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description and in such quantities as to satisfy him that the liquor is being had or kept contrary to this Act or the regulations, it is lawful for him to forthwith seize and remove by force, if necessary, any liquor so found and the packages in which the liquor was had or kept, together with any vehicle, motor car, automobile, vessel, boat, canoe or conveyance containing the liquor.

(2) Where liquor and any vehicle, motor car, automobile, ^{Duty of officer} vessel, boat, canoe or other conveyance containing liquor has been seized by a constable or officer under this Act under such circumstances that the constable or officer is satisfied that the liquor was had or kept contrary to this Act or the regulations, he shall retain the liquor and the packages in which the liquor was had or kept, together with such vehicle, motor car, automobile, vessel, boat, canoe or other conveyance.

Forfeiture

(3) If, within thirty days from the date of the seizure, no person by notice in writing filed with the Board claims to be the owner of the liquor and the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing the liquor, the liquor and all packages containing the liquor, together with the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing the liquor, is *ipso facto* forfeited to Her Majesty in right of Ontario and shall forthwith be delivered to the Board.

Onus on claimant

(4) If within such time any claimant appears, it is incumbent upon him, within that time and after three days notice in writing filed with the Board stating the time and place fixed for the hearing, to prove his claim and his right under this Act and the regulations to the possession of the liquor and packages to the satisfaction of any justice, and, on failure within that time to prove and establish his claim and right, the liquor and packages and the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance in which the liquor was found are *ipso facto* forfeited to Her Majesty in right of Ontario. R.S.O. 1950, c. 210, s. 115.

Delivery of forfeited liquor to Board

117.—(1) In every case in which a justice makes an order for the forfeiture of liquor under this Act and in every case in which any claimant to liquor under section 116 fails to establish his claim and right thereto, the liquor in question and the packages in which it is kept shall forthwith be delivered to the Board. R.S.O. 1950, c. 210, s. 116 (1).

Destruction of forfeited liquor unfit for use

(2) All forfeited liquor shall be destroyed under competent supervision as is from time to time directed by the Board. R.S.O. 1950, c. 210, s. 116 (3); 1960, c. 59, s. 13 (2).

Report on seizure

(3) In every case in which liquor is seized by a constable or other police officer, it is his duty to forthwith make or cause to be made to the Board a report in writing of the particulars of the seizure. R.S.O. 1950, c. 210, s. 116 (4).

Duties of officers and Crown attorneys on receiving information of infringement of this Act

118. Where any information is given to a constable or other police officer that there is cause to suspect that a person is contravening any of the provisions of this Act or the regulations, it is his duty to make diligent inquiry into the truth of such information, and to enter complaint of such contravention before the proper court, without communicating the name of the person giving such information, and it is the duty of the Crown attorney in the county in which the offence is committed to attend to the prosecution of all cases submitted to him by a constable or by an officer appointed under this Act by the Board or by any officer appointed by the council of a municipality that has entered into an agreement with The Liquor Licence Board of Ontario and the council appointing

such officer is responsible for the payment of the proper fees of the Crown attorney when so employed by such officer. R.S.O. 1950, c. 210, s. 117.

119.—(1) For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this Act and the regulations, any inspector or officer appointed by the Board in writing for the purpose, or any constable or other police officer, may inspect the freight and express books and records, and all way-bills, bills of lading, receipts and documents in the possession of any railway company, express company or other common carrier doing business in Ontario, containing any information or record relating to any goods shipped or carried or consigned or received for shipment or carriage in Ontario. Duties of officers

(2) Every railway company, express company or common carrier, and every officer or employee of any such company or common carrier, who neglects or refuses to produce and submit for inspection any book, record or document referred to in subsection 1, when requested to do so by the Board or by such inspector or officer, or constable or other police officer, is guilty of an offence. R.S.O. 1950, c. 210, s. 118. Carriers not producing records

120. In describing the offence respecting the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing or the consumption of liquor, in any information, summons, conviction, warrant or proceeding under this Act, it is sufficient to state the sale or keeping for sale, or disposal, having, keeping, giving, purchasing or consumption, of liquor simply, without stating the name or kind of the liquor or the price thereof, or any person to whom it was sold or disposed of, or by whom it was taken or consumed, or from whom it was purchased or received, and it is not necessary to state the quantity of liquor so sold, kept for sale, disposed of, had, kept, given, purchased or consumed, except in the case of offences where the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less than such quantity. R.S.O. 1950, c. 210, s. 119. Description of offence

121. Notwithstanding anything in this Act, at any time before judgment the justice may amend or alter an information and may substitute for the offence charged therein any other offence against this Act or the regulations, but, if it appears that the defendant has been materially misled by such amendment, the justice shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment. R.S.O. 1950, c. 210, s. 120. Powers as to amendment

Payment of
penalties
to Board
R.S.O. 1960,
c. 218

122. Subject to section 87 of *The Liquor Licence Act*, all fines imposed under this Act, after deducting all necessary costs, shall be paid by the justice to the Board. R.S.O. 1950, c. 210, s. 121.

Limitation

123. The information for the prosecution of any offence against this Act or the regulations shall be laid in writing within three months after the commission of the offence and not afterwards. 1960, c. 59, s. 14.

All prosec-
utions may
be before
justice

124. All prosecutions under this Act, whether for the recovery of a penalty or otherwise, shall take place before a magistrate having jurisdiction or before two or more justices of the peace where no such magistrate is available. R.S.O. 1950, c. 210, s. 123.

Recovery of
fines

R.S.O. 1960,
c. 387

125. Except as otherwise provided in this Act, the fines imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act*. R.S.O. 1950, c. 210, s. 124.

Description
of offence

126. The description of an offence under this Act or the regulations, in the words of this Act or the regulations, or in any words of like effect, is sufficient in law, and any exception, exemption, provision, excuse or qualification, whether it occurs by way of proviso or in the description of the offence in this Act or the regulations, may be proved by the defendant, but need not be specified or negatived in the information, but, if it is so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant. R.S.O. 1950, c. 210, s. 125.

Informa-
tion

127. In a prosecution under this Act for the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing or consuming of liquor, it is not necessary that any witness should depose to the precise description or quantity of the liquor sold, disposed of, kept, had, given, purchased or consumed, or the precise consideration, if any, received therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal or certain knowledge, but the justice trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and, in default of his rebuttal of such evidence to the satisfaction of the justice, convict him accordingly. R.S.O. 1950, c. 210, s. 126.

Proof of
sale

128. In proving the sale, disposal, gift or purchase, gratuitous or otherwise, or consumption of liquor, it is not necessary in any prosecution to show that any money actually

passed or any liquor was actually consumed, if the justice hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift or purchase actually took place, or that any consumption of liquor was about to take place, and proof of consumption or intended consumption of liquor on premises on which such consumption is prohibited, by some person not authorized to consume liquor thereon, is evidence that such liquor was sold or given to or purchased by the person consuming, or being about to consume, or carrying away, such liquor, as against the occupant of such premises. R.S.O. 1950, c. 210, s. 127.

129. In a prosecution under this Act in which a constable or other police officer produces a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, such certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature. R.S.O. 1950, c. 210, s. 128.

Analysis by
federal or
provincial
analysts

130. In a prosecution under this Act, in the absence of proof to the contrary, it shall be conclusively presumed by the justice trying the case that the liquor in question is not exempt from this Act under an order of the Board. 1958, c. 52, s. 5.

Presumption

131. The justice trying a case is, in the absence of proof to the contrary, at liberty to infer that the liquor in question is liquor within the meaning of this Act from the fact that a witness describes it as liquor or by a name that is commonly applied to liquor. 1958, c. 52, s. 6.

Inference
as to
liquor

132. Upon the hearing of a charge of selling or purchasing liquor or of unlawfully having or keeping liquor contrary to this Act or the regulations, the justice trying the case has the right to draw inferences of fact from the kind and quantity of liquor found in the possession of the person accused, or in any building, premises, vehicle, motor car, automobile, vessel, boat, canoe, conveyance or place occupied or controlled by him, and from the frequency with which the liquor is received thereat or therein or is removed therefrom, and from the circumstances under which it is kept or dealt with. R.S.O. 1950, c. 210, s. 130.

Inference
from
circum-
stances

133.—(1) If, on the prosecution of a person charged with committing an offence against this Act or the regulations in selling or keeping for sale or giving or keeping or having or purchasing or receiving of liquor, *prima facie* proof is given

Onus on
proof of
possession

that such person had in his possession or charge or control any liquor in respect of or concerning which he is being prosecuted, then, unless such person proves that he did not commit the offence with which he is so charged, he may be convicted of the offence. R.S.O. 1950, c. 210, s. 131 (1).

Certificate
of cancella-
tion of
permit
prima facie
evidence

(2) In the prosecution of a person charged with an offence against this Act or the regulations, the production of a certificate of cancellation or suspension of permit signed by a member of the Board is *prima facie* evidence of the cancellation or suspension of the permit mentioned in the certificate. R.S.O. 1950, c. 210, s. 131 (3).

Burden
of proof

134.—(1) The burden of proving the right to have or keep or sell or give or purchase or consume liquor is on the person accused of improperly or unlawfully having or keeping or selling or giving or purchasing or consuming liquor.

Onus on
physicians

(2) The burden of proving that a prescription or administration of liquor is *bona fide* and for medical purposes only is upon the person who prescribes or administers the liquor, or causes the liquor to be administered, and a justice trying a case has the right to draw inferences of fact from the frequency with which similar prescriptions are given and from the amount of liquor prescribed or administered and from the circumstances under which it is prescribed or administered. R.S.O. 1950, c. 210, s. 132.

Procedure
where
conviction
charged

135.—(1) The proceedings upon an information for an offence against this Act or the regulations, in a case where a previous conviction or convictions are charged, shall be as follows:

Use of
previous
conviction
after
accused
found
guilty

1. The justice shall in the first instance inquire concerning the subsequent offence only, and, if the accused is found guilty thereof, he shall then be asked whether he was so previously convicted as alleged in the information, and, if he answers that he was so previously convicted, he shall be sentenced accordingly, but, if he denies that he was so previously convicted or does not answer such question, the justice shall then inquire concerning the previous conviction or convictions.

Proof of
previous
convictions

2. The previous convictions may be proved *prima facie* by the production of a certificate purporting to be under the hand of a convicting justice or the Minister or the clerk of the court to whose office the conviction has been returned, without proof of signature or official character.

3. In the event of a conviction for a second or subsequent offence becoming void or defective after the making thereof by reason of a previous conviction being set aside, quashed or otherwise rendered void, a justice by whom the second or subsequent conviction was made shall summon the person convicted to appear at a time and place to be named, and shall thereupon, upon proof of the due service of the summons, if such person fails to appear, or on his appearance, amend the second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had the previous conviction never existed, and the amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance.

Procedure where previous conviction avoided

4. Where a person who has been convicted of a contravention of any provision of this Act or the regulations is afterwards convicted of a contravention of any other provision of this Act or the regulations, such later conviction shall be deemed a conviction for a second offence within the meaning of this Act, and shall be dealt with and punished accordingly, although the two convictions may have been under different provisions.

Conviction under different sections

(2) Charges of several offences against this Act or the regulations committed by the same person may be included in one and the same information if the information and the summons or warrant issued thereon contain specifically the time and place of each offence.

Including several charges in one information

(3) One conviction for several offences, and providing a separate penalty or punishment for each, may be made under this Act although such offences may have been committed on the same day, but the increased penalty or punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after information laid for a first offence. R.S.O. 1950, c. 210, s. 133.

One conviction for several offences

136. In all prosecutions, actions or proceedings under this Act against a corporation, every summons, warrant, order, writ or other proceeding may, in addition to any other manner of service that is provided or authorized by law, be served on the corporation by delivering it to any officer, attorney or agent of the corporation in Ontario, or by leaving it at any place in Ontario where it carries on any business, but service in any other way shall be deemed sufficient if the court or justice, by or before whom such summons, warrant, order, writ or other proceeding was issued or is returnable or by or

Service on corporations

before whom any proceeding subsequent to such service is to be had or taken, is of the opinion that the service has been such as to bring the summons, warrant, order, writ or other proceeding to the notice of the corporation. R.S.O. 1950, c. 210, s. 134.

Presump-
tion as to
incorpora-
tion

137. In any prosecution, action or proceeding under this Act in which it is alleged that a corporation is or has been guilty of an offence against this Act or the regulations, the fact of the incorporation of that corporation shall be presumed without it being proved by the prosecutor, unless satisfactory proof is produced to the contrary. R.S.O. 1950, c. 210, s. 135.

Informal-
ties not to
invalidate

138.—(1) No order or warrant based upon a conviction, and no search warrant, shall upon any application by way of *certiorari* or motion to quash or *habeas corpus* be held insufficient or invalid for any irregularity, informality or insufficiency therein or by reason of any defect of form or substance.

Amend-
ment

(2) The court or judge hearing any such application may amend the order, warrant or search warrant as justice requires. R.S.O. 1950, c. 210, s. 136.

Notice of
motion to
quash
conviction

139. No motion to quash a conviction, order or warrant made under this Act shall be heard by the court or judge unless the notice of such motion has been served within thirty days from the date of the conviction or order. R.S.O. 1950, c. 210, s. 137.

Appeal to
county or
district
judge

140.—(1) Any person convicted under this Act may, subject to the provisions hereinafter contained, appeal from the conviction to the judge of the county or district court of the county or district in which the conviction is made sitting in chambers without a jury if notice of such appeal is given to the prosecutor or informant and to the convicting justice within twenty days of such conviction.

Notice to
set forth
grounds
and give
address
for service

(2) Such notice shall set forth the grounds on which the appeal is made and shall have endorsed thereon the address at which the appellant may be served with any notice or process in connection with any proceeding under this section or under section 141.

Affidavit to
be delivered
with notice
of appeal

(3) There shall be delivered to the convicting justice, with such notice of appeal, an affidavit of the person convicted complying with the requirements set out in subsection 15.

(4) In case the appellant has paid the fine and costs imposed upon him by the convicting justice, he may, subject to the conditions set out in subsections 1, 2 and 3 and the deposit of \$50 with the justice to answer the respondent's costs, appeal against such conviction to the judge having jurisdiction in the matter who shall hear and determine the appeal as provided in subsections 11 and 12, and the deposit of the \$50 shall be made at the time of the delivery of the notice of appeal or within five days thereafter, and, in default of such deposit, the appeal shall be dismissed.

Appeal
after
payment of
fine and
cost

(5) Subject to subsection 6, the person convicted, if he is in custody, shall either remain in custody until the hearing of the appeal before the judge or he may, notwithstanding any order of imprisonment either in the first instance or in default of the payment of a fine, enter into a recognizance with two sufficient sureties in such sum or sums as the justice with the approval of the Crown attorney may fix, conditioned personally to appear before the judge and to try the appeal and abide by his judgment thereupon and also to pay any penalty in money and costs that the judge orders.

Recogn-
izance

(6) Where the appellant desires to deposit a sum of money instead of providing sureties, he may do so on entering into a recognizance on his own behalf and depositing an amount approved by the convicting justice and the Crown attorney, not being less than a surety would be required to become responsible for, and any money so deposited shall be available for the payment of any fine and costs that the judge thinks fit to impose.

Money
deposit in
lieu of
recog-
nizance

(7) In any case in which security is provided, whether in money or otherwise, the security shall not be withdrawn until the time has elapsed for entering an appeal and, in case of a further appeal, the security shall remain until the final disposition of the case.

When
security
may be
withdrawn
or
cancelled

(8) Upon the recognizance being entered into, the justice shall liberate such person if in custody and shall, immediately after such liberation or, if the appellant remains in custody, shall immediately after service of the notice of appeal upon the convicting justice, deliver or transmit by registered mail to the clerk of the county or district court, to be delivered after filing to the judge appealed to, the depositions and all other papers in the case, including notice of appeal and affidavit of the appellant with a certificate signed by the justice in the form hereinafter mentioned, and such certificate shall be deemed to be a part of the record.

When re-
cognizance
entered
into

(9) The certificate shall be in the following form:

Certificate
of justice

CERTIFICATE OF JUSTICE

A notice having been served upon me, the undersigned, of the intention of the defendant to appeal against my decision in the case set out in the information mentioned below, I herewith in pursuance of the statute, return the following papers therein:

1. Notice of appeal and affidavit (*if any*).
2. Information.
3. Summons or warrant issued thereon.
4. The evidence.
5. The conviction or order (*as the case may be*).
6. Other papers (*if any*), naming them.

And I hereby certify to the judge of the county (*or district*) of.....that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in the said notice of appeal.

Dated this.....day of....., 19.....

Justice

in and for the.....

Fee of clerk
of court

(10) The appellant shall pay to the clerk of the court for his attendance and services in connection with such appeal the sum of \$2, and it shall be taxed as costs in the cause.

Summons
to be issued
by judge

(11) Within thirty days from the service of the notice of appeal, the judge shall, on the application of an appellant, grant a summons calling upon all parties to attend before him at his chambers on the day and hour named therein, when the hearing of the appeal will be proceeded with, but, if no such application is made within the thirty days, the judge, upon proof of the failure to make such application, shall order that the appeal be forthwith dismissed with costs. R.S.O. 1950, c. 210, s. 138 (1-11).

Appeal to be
on evidence
before
justice

(12) The appeal shall be heard and determined upon the evidence and proceedings had and taken before the justice to be called the record, and the judge may, upon such hearing, make such order as he thinks fit affirming, reversing or amending the conviction appealed from, and the conviction so made has the same effect and shall be enforced in the same way as if made by the justice whose conviction is appealed from. R.S.O. 1950, c. 210, s. 138 (12); 1953, c. 57, s. 5 (1).

Application
of
R.S.O. 1960,
c. 387

(13) The practice and procedure upon such appeals and all proceedings thereon shall be governed by *The Summary Convictions Act* so far as it is not inconsistent with this Act. R.S.O. 1950, c. 210, s. 138 (13).

Appeal from
order of
dismissal

(14) Any informant or complainant dissatisfied with an order of dismissal made by a justice under this Act may appeal on any ground that involves a question of law alone to the judge of the county or district court in the county or district

in which the order complained of was made, and the proceedings shall be the same as nearly as may be as in the case of an appeal by a person convicted under this Act, and the judge has and may exercise the same powers as in the case of an appeal against a conviction, and may make such order as he thinks fit, and the deposit of security in such case shall be dispensed with. R.S.O. 1950, c. 210, s. 138 (14); 1953, c. 57, s. 5 (2).

(15) No appeal lies from a conviction for a contravention of any of the provisions of this Act or the regulations unless the party appealing delivers to the justice who tried the case, with his notice of appeal, an affidavit that he did not by himself or by his agent, servant or employee or any other person with his knowledge or consent commit the offence charged in the information, and such affidavit shall negative the charge in the terms used in the conviction, and shall further negative the commission of the offence by the agent, servant or employee of the accused or any other person with his knowledge or consent, which affidavit shall be transmitted with the conviction and other papers to the judge to whom the appeal is made, but, where the appeal is only as against the penalty imposed by the justice, the affidavit required by this section is not necessary, and, if the party appealing is a corporation, the affidavit may be made by the president, secretary or any other officer or employee of the corporation having knowledge of the facts. Affidavits of
bona fides

(16) Except as provided by this section, no appeal shall be taken against any conviction or order made by a justice under this Act. R.S.O. 1950, c. 210, s. 138 (15, 16). Other
appeals not
allowed

141. An appeal to the Court of Appeal against any decision of the judge under section 140 may be taken with leave of the Court of Appeal or a judge thereof on any ground that involves a question of law alone and the provisions of *The Summary Convictions Act* relating to appeals to the Court of Appeal apply *mutatis mutandis*. 1953, c. 57, s. 6. Appeal to
Court of
Appeal

R.S.O. 1960,
o. 387

142. The purpose of this Act and the regulations is to prohibit transactions in liquor that take place wholly in Ontario except under Government control as specifically provided by this Act and the regulations dealing with the importation, sale and disposition of liquor in Ontario through the instrumentality of a board, and otherwise provide the means by which such Government control shall be made effective, and nothing in this Act shall be construed as forbidding, affecting or regulating any transaction that is not subject to the authority of the Legislature. R.S.O. 1950, c. 210, s. 140. General
intent

Proclama-
tion for-
bidding
possession
of liquor

143. In any case of emergency, the Lieutenant Governor may issue a proclamation forbidding any person to have liquor in his possession in the area mentioned in the proclamation unless such person has been authorized in writing by the Board and given special permission thereby to have liquor in that area, and the proclamation may also authorize in such area the seizure without other warrant or authority and detention for such time as is authorized of any liquor not had or kept in such area with the permission of the Board, and the proclamation may remain in force for such period as is therein determined. R.S.O. 1950, c. 210, s. 141.

Effect of
R.S.O. 1960,
c. 218

144. The provisions of this Act and the regulations relating to the sale, purchase, having, supplying, serving and consuming of liquor shall be read and construed subject to *The Liquor Licence Act*. R.S.O. 1950, c. 210, s. 142.

C.T.A.
areas
R.S.C. 1952,
c. 30

145.—(1) This Act does not apply in an area in Ontario in which the *Canada Temperance Act* is in force.

Application
of Act upon
C.T.A.
ceasing to
be in force

(2) Upon the *Canada Temperance Act* ceasing to be in force in an area, this Act, subject to section 69 of *The Liquor Licence Act*, applies in such area. R.S.O. 1950, c. 210, s. 143.

CHAPTER 218

The Liquor Licence Act

1. In this Act,

Interpre-
tation

- (a) "beer" means beer as defined in *The Liquor Control Act*; R.S.O. 1960,
c. 217
- (b) "Board" means the Liquor Licence Board of Ontario;
- (c) "club" means a club,
- (i) that is organized in the manner prescribed by the regulations,
 - (ii) that has the special accommodation, facilities and equipment that are prescribed by the regulations,
 - (iii) that has for its objects definite purposes of a social, recreational or patriotic nature,
 - (iv) that has not fewer than fifty members,
 - (v) in which the members whose names and addresses are entered in a list of members and whose dues are paid in the manner prescribed by the rules or by-laws of the club may vote for all purposes of the club,
 - (vi) that is not operated for pecuniary gain, and
 - (vii) that has been organized and in active operation for not less than one year prior to the time of application for a licence;
- (d) "dining lounge" means the part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, food and the special services that are prescribed by the regulations are regularly furnished to the public and liquor is served with meals;
- (e) "dining room" means the part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations

and that is used exclusively for the serving of regular meals in consideration of payment therefor as well as the sale of cigars, cigarettes, tobacco and other articles incidental to the sale of regular meals;

- (f) "establishment" means a club, hotel, inn, public house, tavern, military mess, restaurant, railway car or steamship having premises that comply with the requirements of this Act and the regulations prescribing the qualifications of premises in respect of which licences may be issued;
- (g) "hotel" or "inn" means an establishment in regular operation that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, food and lodging are regularly furnished to the public and having,
 - (i) in municipalities with a population of over 100,000, not less than fifty bedrooms,
 - (ii) in cities with a population of less than 100,000 and in towns, not less than twenty bedrooms, and
 - (iii) in any other part of Ontario, not less than ten bedrooms,and in every case having a sufficient number of bedrooms to serve the needs of the community where the establishment is located;
- (h) "justice" means a magistrate, and where no magistrate is available, means two or more justices of the peace;
- (i) "last revised list of the municipality" means the voters' list for the municipality as finally revised;
- (j) "licence" means a licence provided for and issued under this Act;
- (k) "licensed premises" means premises for which a licence is issued under this Act;
- (l) "licensing district" means a licensing district constituted under this Act;
- (m) "liquor" means liquor as defined in *The Liquor Control Act*;
- (n) "lounge" means the part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, liquor is served;

- (o) "military mess" includes a canteen and an institute in a building or camp used for the accommodation of the active or reserve units of the naval, military or air forces of Canada;
- (p) "Minister" means the member of the Executive Council to whom for the time being is assigned the administration of this Act;
- (q) "Ontario wine" means Ontario wine as defined in *The Liquor Control Act*; R.S.O. 1960,
c. 217
- (r) "public house" means an establishment or part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, beer is served;
- (s) "railway car" means a railway dining car, railway buffet car, railway club car or a drawing-room, bedroom or compartment in a railway sleeping car;
- (t) "regulations" means the regulations made under this Act;
- (u) "restaurant" means an establishment that is exclusively engaged in the serving of regular meals to the public, in consideration of payment, as well as the sale of cigars, cigarettes, tobacco and other articles incidental to the sale of regular meals;
- (v) "steamship" means a vessel propelled through water by any power other than muscular power that carries passengers and plies regularly between any port in Ontario and any port in or outside Ontario;
- (w) "tavern" means an establishment having separate parts thereof that have the special accommodation, facilities and equipment that are prescribed by the regulations for at least two of the following classes of licences:
 - (i) dining lounge licence,
 - (ii) dining room licence,
 - (iii) lounge licence,
 - (iv) public house licence;
- (x) "wine" means wine as defined in *The Liquor Control Act*. R.S.O. 1950, c. 211, s. 1; 1960, c. 60, s. 1, *revised*.

THE BOARD

The Liquor
Licence
Board of
Ontario

2. The Liquor Licence Board of Ontario is continued and shall consist of three members appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 211, s. 2.

Chairman
and vice-
chairman

3. The Lieutenant Governor in Council may designate one of the members of the Board as chairman and another of the members as vice-chairman. R.S.O. 1950, c. 211, s. 3.

Quorum

4. Two members of the Board constitute a quorum. R.S.O. 1950, c. 211, s. 4.

Disqualifi-
cation,
members
and staff

5. No member, registrar, deputy registrar, official, inspector or employee of the Board shall by himself, his partner or agent have any interest directly or indirectly in,

- (a) a person, company, corporation, partnership, syndicate or other organization engaged in the manufacture, sale or distribution of liquor;
- (b) any licensed premises; or
- (c) any contract of any nature in respect of any licensed premises, or any premises upon which liquor is manufactured, produced, sold or kept for sale. R.S.O. 1950, c. 211, s. 5.

Salaries of
Board

6. The members of the Board shall be paid such salaries as are fixed by the Lieutenant Governor in Council. R.S.O. 1950, c. 211, s. 6.

Staff

7. The staff of the Board shall consist of a registrar, deputy registrars and such officials, inspectors and employees as the Board, with the approval of the Lieutenant Governor in Council, appoints. R.S.O. 1950, c. 211, s. 7.

Salaries
of staff

8. The registrar, deputy registrars, officers, inspectors and employees of the Board shall be paid such salaries or other remuneration as the Board, with the approval of the Lieutenant Governor in Council, determines. R.S.O. 1950, c. 211, s. 8.

Special
services

9. When the Board, by virtue of any power vested in it, appoints or directs any person, other than a member of the staff of the Board, to perform any service, such person shall be paid such sum for services and expenses as the Board, with the approval of the Lieutenant Governor in Council, determines. R.S.O. 1950, c. 211, s. 9.

10. The salaries or other remuneration of the members of the Board, the registrar, deputy registrars, officials, inspectors and employees and all other expenses of the Board shall be paid monthly by the Liquor Control Board of Ontario. R.S.O. 1950, c. 211, s. 10. Payment of salaries

11. No member of the Board, registrar, deputy registrar, official, inspector or employee of the Board is compellable to give testimony in a court of civil jurisdiction with regard to information obtained by him in the discharge of his official duty, or to produce any files, papers, information, reports, correspondence or other documents relating to the business of the Board. R.S.O. 1950, c. 211, s. 11. Officials not compelled to testify

12. The books and records of the Board are at all times subject to examination and audit by the Provincial Auditor and such other person as the Lieutenant Governor in Council authorizes in that behalf. R.S.O. 1950, c. 211, s. 12. Audit of books

LICENSING DISTRICTS

13. The Lieutenant Governor in Council may designate areas in Ontario as licensing districts. R.S.O. 1950, c. 211, s. 13. Licensing districts

PROCEEDINGS BEFORE AND INVESTIGATIONS BY THE BOARD

14. Proceedings before the Board shall be instituted by application and the Board may make such orders, give such directions and issue such certificates as it deems proper or as are necessary or incidental to the exercise of its powers. R.S.O. 1950, c. 211, s. 14. Form of proceedings

15. Where in the opinion of the Board any of the relevant circumstances relating to an application heard by it have altered or new evidence in connection therewith has become available, the Board may review any order made upon such application. R.S.O. 1950, c. 211, s. 15. Review of order

16. For the purpose of any hearing or investigation, the Board has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, except that, Evidence

- (a) the rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses do not apply;

- (b) no person is entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;
- (c) no person shall refuse to answer any question upon any ground of privilege, but a solicitor shall not be required to disclose any communications between himself and his client; and
- (d) no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operations of this section. R.S.O. 1950, c. 211, s. 16.

R.S.O. 1960,
c. 125

Investiga-
tions by
Board

17.—(1) The Board may make such investigation as it deems expedient for the due administration of this Act into or respecting,

- (a) any person or the affairs or conduct of any person;
- (b) any authority at any time issued or held under *The Liquor Control Act* or *The Liquor Authority Control Act, 1944*, or any licence at any time issued or held under this Act, or any premises in respect of which any such authority or licence was at any time issued or held; or
- (c) any matter pertaining to the sale or handling of or transactions in liquor.

R.S.O. 1960,
c. 217
1944, c. 33

Idem

(2) Where an investigation is or is about to be undertaken under this section, the Board may by order,

- (a) authorize any person to seize and take possession of any documents, records or other property belonging to, in the possession or under the control of any person that the Board considers may be relevant to the investigation; and
- (b) appoint an accountant or other expert to examine documents, records, property or other matters that the Board considers may be relevant to the investigation. R.S.O. 1950, c. 211, s. 17.

Special
audit

18.—(1) In addition to any audit provided for by the regulations, the Board may at any time authorize and direct any person to enter upon the premises where the books, accounts or records of or pertaining to any establishment, distillery, brewery or winery are kept or may be, and to inspect, study, audit, take extracts from or seize such books, accounts or other records.

(2) Every person having any book, account or record in his possession or under his control who refuses or fails to produce it or to comply with a request made pursuant to an authorization or direction of the Board given under subsection 1 is guilty of an offence and liable to a fine of not more than \$1,000. R.S.O. 1950, c. 211, s. 18.

Offence

19. No order, direction, certificate or subpoena or other document of the Board is valid or binding unless it is issued in the name of the Board and sealed with the seal of the Board as attested by the signature of the registrar or a deputy registrar. R.S.O. 1950, c. 211, s. 19.

Validity of orders

20. The decisions, orders and rulings of the Board are final and shall not be questioned, reviewed or restrained by injunction, prohibition, mandamus, *quo warranto* proceedings or other process or proceedings in any court, or be removed by *certiorari* or otherwise into any court, but the Board may, or at the request of any person having a proprietary interest in the matter before the Board shall, state a case on a point of law only as provided from time to time in the *Criminal Code* (Canada). R.S.O. 1950, c. 211, s. 20; 1951, c. 47, s. 1.

Finality of orders

1953-54, c. 51 (Can.)

LICENCES AND PERMITS

21.—(1) Licences may be issued under this Act for establishments as provided in section 24 and shall be of the following classes and for the purposes indicated:

Licences

1. Dining lounge licence, for the sale and consumption of liquor with meals.
2. Dining room licence, for the sale and consumption of beer and wine with meals.
3. Lounge licence, for the sale and consumption of liquor.
4. Public house licence, for the sale and consumption of beer in premises to which men only are admitted. R.S.O. 1950, c. 211, s. 21 (1), cls. (a-d).
5. Public house licence, for the sale and consumption of beer in premises to which women only or women escorted by men are admitted as provided by the regulations. 1957, c. 62, s. 1.
6. Club licence, for the sale and consumption of liquor with or without meals in an establishment classified as a club.

7. Club licence (restricted), for the sale and consumption of beer and wine with meals and beer without meals in an establishment classified as a club. 1953, c. 58, s. 1.

Expiration of licences

(2) Subject to the provisions of this Act relating to the renewal, suspension and cancellation of licences, every licence expires at midnight on the 31st day of March next following its issue.

Number of licences to be issued in municipality

(3) The Board may restrict the number of licences or of any class of licences that it issues in any municipality. R.S.O. 1950, c. 211, s. 21 (2, 3).

Banquet or entertainment permits

22.—(1) The Board may issue banquet or entertainment permits for the serving of liquor on designated premises for special occasions as provided by the regulations and may issue any such permit upon such terms and subject to such conditions as it prescribes.

Application

(2) Application for a banquet or entertainment permit may be made to the registrar or to the deputy registrar for the licensing district in which the banquet or entertainment is to be held. R.S.O. 1950, c. 211, s. 22.

Mess and canteen permit

23.—(1) The Board may issue a mess and canteen permit to the officer commanding any unit, station or establishment of the naval, military or air forces of Canada that is designated to the Board by the Minister of National Defence for Canada authorizing him to purchase liquor for consumption in messes and canteens under his control.

Provincial jurisdiction not conferred

(2) Neither the application for a permit, the issue of a permit nor the designation of a unit, station or establishment by the Minister of National Defence for Canada confers any provincial jurisdiction with respect to such unit, station or establishment or in respect of any mess or canteen.

Jurisdiction of Board not interfered with

(3) Nothing in this section shall be construed as interfering with the jurisdiction of the Board with respect to a military mess in respect of which a licence is issued under this Act. R.S.O. 1950, c. 211, s. 23.

Licences, issue

24.—(1) The Board may, subject to this Act and the regulations and to the local option provisions of any Act of the Parliament of Canada or of the Legislature, issue to the owner of an establishment of any of the following classes, a licence or licences of one or more of the classes indicated: R.S.O. 1950, c. 211, s. 24 (1), *part.*

1. Hotels, inns or taverns having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which each licence is issued,

- i. dining lounge licence,
- ii. dining room licence,
- iii. lounge licence,
- iv. public house licence,

but the Board shall not issue a dining lounge licence or a lounge licence to an hotel, inn or tavern situated in a municipality in which such licences have not been issued heretofore to hotels, inns or taverns, unless or until an affirmative vote has been taken on question 7 or 8, as the case may be, of subsection 1 of section 72, and section 72 applies *mutatis mutandis* to such vote whether or not a by-law mentioned in section 70 is in force therein. 1957, c. 62, s. 2 (1).

2. Military messes, railway cars and steamships having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which each licence is issued,

- i. dining lounge licence,
- ii. dining room licence,
- iii. lounge licence,
- iv. public house licence. R.S.O. 1950, c. 211, s. 24 (1), cl. (c); 1953, c. 58, s. 2 (1).

3. Restaurants, having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which the licence is issued, a dining room licence. R.S.O. 1950, c. 211, s. 24 (1), cl. (d).

4. Public house, having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect to which a licence is issued,

- i. a public house licence,
- ii. a dining room licence. 1953, c. 58, s. 2 (2).

5. Clubs, having special accommodation facilities and equipment prescribed by the regulations for the

designated parts of the establishment in respect to which a licence is issued,

- i. a club licence,
- ii. a club licence (restricted). 1953, c. 58, s. 2 (3).

Dining room
and public
house
licences

(2) The Board shall not issue a dining room licence or a public house licence in any municipality in which such licences have not been issued, except in the case of,

1944, c. 33

(a) an establishment in respect of which an authority under *The Liquor Authority Control Act, 1944*, including therein a privilege corresponding to the licence issued under this Act, was held on the 1st day of January, 1947; or

(b) an establishment classified as an hotel, inn, club, military mess, railway car or steamship,

unless or until an affirmative vote has been taken on question 4, 5 or 6, as the case may be, of subsection 1 of section 72, and section 72 applies *mutatis mutandis* to such vote whether or not a by-law mentioned in section 70 is in force therein. 1957, c. 62, s. 2 (2).

Scope of
licence
may be
restricted

(3) The Board may restrict the scope or effect of any licence or may issue a licence upon such terms and subject to such further conditions as it prescribes. R.S.O. 1950, c. 211, s. 24 (3).

Classifica-
tion of
establish-
ments

25. The Board shall classify all establishments in respect of which a licence is applied for or issued. R.S.O. 1950, c. 211, s. 25.

Classifica-
tion of
establish-
ments
authorized
under
1944, c. 33

26.—(1) The Board may, for the purposes of this Act, classify any establishment in respect of which an authority under *The Liquor Authority Control Act, 1944* was held on the 1st day of January, 1947.

Classifica-
tion as
hotel

(2) Where in the opinion of the Board any establishment in respect of which an authority under *The Liquor Authority Control Act, 1944* was held on the 1st day of January, 1947, is serving the needs of the community in the matter of bedroom accommodation, the Board may classify it as an hotel or inn notwithstanding that it does not comply with subclause i, ii or iii of clause g of section 1, but such classification and any licence issued pursuant thereto may be made and issued for a limited time and from time to time and upon such terms and conditions as the Board deems advisable. R.S.O. 1950, c. 211, s. 26.

27. Except as permitted by the Board, bedroom accommodation that is available to the public in an establishment that is classified by the Board as a public house, restaurant or tavern, shall be rented only for weekly or longer periods. R.S.O. 1950, c. 211, s. 27. Bedroom accommodation

28.—(1) No licence may be issued, transferred or renewed under this Act to any person who, Where issue of licence prohibited

- (a) in the opinion of the Board, is not a fit and proper person, or is not the true owner of the business carried on at the premises for which the licence is sought;
- (b) has been convicted of any offence against such of the laws of Canada or Ontario as the regulations prescribe;
- (c) is disqualified under this Act or the regulations or has not complied with the requirements thereof;
- (d) as a constable or other police officer or in any other capacity, is engaged in law enforcement or to any member of the family of any such person residing with him;
- (e) if an individual, is not a British subject;
- (f) if a corporation, does not comply with this Act and the regulations; or
- (g) if a club, does not comply with this Act and the regulations. R.S.O. 1950, c. 211, s. 28 (1); 1957, c. 62, s. 3 (1).

(2) Every person who applies for the issue, transfer or renewal of a licence and who fails to make full disclosure in the form of application regarding any of the matters referred to in this section and subsection 1 of section 29 is guilty of an offence. R.S.O. 1950, c. 211, s. 28 (2); 1957, c. 62, s. 3 (2). Failure to disclose

(3) The information for the prosecution for an offence under subsection 2 shall be laid within one year after the commission of the offence. 1953, c. 58, s. 3. Time for prosecution

29.—(1) No licence may be issued or renewed under this Act, Where issue of licence prohibited

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;
- (b) to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;

- (c) to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or
- (d) for premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.

Failure to disclose

(2) If the existence of any of the conditions indicated in subsection 1, whether such condition existed at the time of the issue of the licence or arises thereafter, is not disclosed to the Board, the non-disclosure is an offence and no action or other proceeding shall be brought or commenced in any court in Ontario in respect of such agreement, arrangement, concession, obligation, undertaking or interest. R.S.O. 1950, c. 211, s. 29.

Information re corporations

30. The directors of an incorporated company that applies for the issue, renewal or transfer to it of a licence, shall at the time of making the application or at any other time during the term of the licence, when ordered by the Board, produce such particulars of the officers and shareholders of the company as are required. R.S.O. 1950, c. 211, s. 30.

RIGHTS IN LICENCE

Licence does not confer any vested right

31. No person shall enjoy a vested right in the continuance of a licence, and upon the issue, renewal, transfer, cancellation or suspension thereof the value of a licence shall not be capitalized but becomes the property of the Crown in right of Ontario. R.S.O. 1950, c. 211, s. 31.

ANNUAL MEETING

Meeting to be held annually for each licensing district

32. A member of the Board shall hold a meeting annually, at a convenient place determined by the Board, for each licensing district between the 1st day of October and the 31st day of January in the year next following. 1960, c. 60, s. 2.

Notice

33. Notice of the annual meeting in the form prescribed by the regulations shall be published in a newspaper having a general circulation in the licensing district at least ten days before the meeting. R.S.O. 1950, c. 211, s. 33.

34. After a meeting has been held pursuant to section 32, ^{Renewal of licences} the Board shall review and determine applications for the renewal of licences. 1960, c. 60, s. 3.

SPECIAL MEETINGS

35.—(1) The Board or a member thereof may hold such ^{Special meetings} special meetings as are deemed necessary for the hearing and determination of,

- (a) applications for new licences;
- (b) deferred applications for renewals of licences;
- (c) proceedings involving the cancellation or suspension of a licence;
- (d) applications for transfers of licences;
- (e) proceedings in compensation matters;
- (f) applications for revocation of the suspension of a licence;
- (g) applications for review of orders of the Board; and
- (h) matters within the jurisdiction of the Board. R.S.O. 1950, c. 211, s. 35; 1960, c. 60, s. 4 (1).

(2) After a meeting has been held pursuant to subsection 1, ^{Idem} the Board shall review and determine the applications or other matters before the Board at such meeting. 1960, c. 60, s. 4 (2).

PROCEEDINGS ON APPLICATIONS

36.—(1) Every application shall be in the form prescribed ^{Filing of application} by the regulations and shall be filed with the deputy registrar of the licensing district in which are located the premises concerning which the application is made.

(2) No application for a licence shall be heard at any special ^{Leave to apply} meeting until leave has been granted by the Board. 1951, c. 47, s. 2.

37. After leave has been obtained under section 36, notice ^{Publication of notice} of the application for a licence in the form prescribed by the regulations shall be published twice,

- (a) in a newspaper published in the municipality or community in which the premises for which the licence is sought are situated and having a general circulation in such municipality or community; or

- (b) where no newspaper is published in the municipality or community in which such premises are situated, in a newspaper having a general circulation in such municipality or community,

and such publications shall be at least five clear days apart and the second of such publications shall be not less than fifteen clear days before the meeting of the Board at which the application is to be heard. R.S.O. 1950, c. 211, s. 37; 1951, c. 47, s. 3.

Personal
application

38. A licence shall not be issued by the Board unless the applicant therefor appears in person, but an incorporated company may be represented by a director, official or manager duly certified as such to the satisfaction of the Board. R.S.O. 1950, c. 211, s. 38.

Renewals

39. Unless otherwise directed by the Board, it is not necessary for an applicant for the renewal of a licence to publish notice of his application or to appear in person before the Board. R.S.O. 1950, c. 211, s. 39.

Objections

40.—(1) Any person resident in a licensing district where the premises concerning which the application is made are situated may object to the application, and the grounds of objection in writing shall be filed with the deputy registrar at least ten days before the meeting at which the application is to be heard.

Applicant
to be
notified

(2) Upon receipt of an objection to an application, the deputy registrar shall notify the applicant thereof. R.S.O. 1950, c. 211, s. 40.

CANCELLATION AND SUSPENSION OF LICENCES

Application
for cancella-
tion

41.—(1) Upon an application being made to the Board for the cancellation or suspension of a licence, the Board may in its discretion by notice in writing require the holder of the licence to show cause to the Board why the licence should not be cancelled or suspended, and in the event of the failure of the holder of the licence to show cause, the Board shall take such action as the circumstances require.

Notice to
licence
holder

(2) The notice required by subsection 1 shall be sent by prepaid mail by the Board to the licence holder at his last known address at least seven days before the date of the meeting. R.S.O. 1950, c. 211, s. 41.

42. Upon the hearing of an application for cancellation of a licence, the Board may dismiss the application or make such order as it deems proper and in any such order may, Powers of Board at hearing

- (a) cancel the licence;
- (b) disqualify any person from holding a licence;
- (c) disqualify any premises from being eligible as licensed premises; and
- (d) impose such conditions upon the holder of the licence as the circumstances require. 1951, c. 47, s. 4.

43. The Board shall cancel a licence, When licence to be cancelled

- (a) if the licence holder persistently fails to comply with this Act or *The Liquor Control Act* or the regulations hereunder or thereunder; or R.S.O. 1960, c. 217
- (b) if the licence holder persistently fails to carry out the orders of the Board, the Liquor Control Board of Ontario or the Fire Marshal of Ontario; or
- (c) if the licence holder persistently fails to keep the licensed premises in a clean and sanitary condition; or
- (d) if the licence holder persistently fails to comply with any municipal by-law affecting the licensed premises; or
- (e) if any of the circumstances exist that under subsection 1 of section 28 or subsection 1 of section 29 prevent the issue of a licence. R.S.O. 1950, c. 211, s. 43.

44. The Board may suspend any licence or permit issued under this Act and shall give reasons therefor at the time of the hearing. 1951, c. 47, s. 5. Powers of Board to suspend licences, etc.

TRANSFER OF LICENCES

45.—(1) No licence shall be transferred except with the consent in writing of the Board and the Board is not under any circumstances bound to give such consent. 1953, c. 58, s. 4 (1), *part*. Transfer of licences

(2) Upon a transfer of a licence, the transferor shall pay to the Liquor Control Board of Ontario at the time of the transfer such fee as the regulations prescribe. 1953, c. 58, s. 4 (1), *part*; 1960, c. 60, s. 5 (1). Transfer fee

(3) The amount payable to the Liquor Control Board of Ontario under subsection 2 constitutes a debt due to the Liquor Control Board of Ontario and is recoverable by action in any court of competent jurisdiction. R.S.O. 1950, c. 211, s. 44 (4); 1960, c. 60, s. 5 (2). Amount payable to L.C.B.O. constitutes debt due Board

Registration of notice

(4) A notice in the prescribed form of the amount payable under subsection 2 may be registered against the lands upon which the premises in respect of which the licence was issued are situate in the proper registry or land titles office, and upon registration, the notice operates as a charge against such lands and the buildings thereon. R.S.O. 1950, c. 211, s. 44 (5).

Transfer of licence, when deemed final

(5) The transfer of a licence shall not be deemed to be final until the amount of the transfer fee has been paid in full. R.S.O. 1950, c. 211, s. 44 (6); 1953, c. 58, s. 4 (2).

Issue or transfer of shares of corporation

46. The Board may in its discretion require the directors of an incorporated company that is the holder of a licence to present to the Board for approval any issue or transfer of shares of its capital stock, and where in the opinion of the Board a substantial interest is issued or transferred, subsection 2 of section 45 applies *mutatis mutandis*. 1953, c. 58, s. 5.

Power of Board to purchase premises

47.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board has the right to purchase any licensed premises or any shareholding interest therein at the price and on the terms stipulated in any agreement for sale, offer for sale or transfer coming before the Board for its consent under section 45, and the Board may exercise such right by serving notice in writing thereof upon the vendor.

Payment of purchase price

(2) Whenever the Board has exercised the right of purchase mentioned in subsection 1, the purchase price or any part thereof necessary to complete the transaction shall be paid by the Treasurer of Ontario out of the net profits of the Liquor Control Board of Ontario upon the requisition of the Board.

Board may sell licensed premises

(3) Subject to the approval of the Lieutenant Governor in Council, the Board may sell any licensed premises or any shareholding interest acquired under this section. R.S.O. 1950, c. 211, s. 45.

COMPENSATION FOR DISQUALIFICATION

Compensation may be awarded

48.—(1) Where the Board disqualifies any premises from holding a licence for a cause that is not the fault of or is beyond the control of the licence holder, it may, subject to the approval of the Lieutenant Governor in Council, award by way of compensation to the owner of the premises or to the holder of the licence, as the Board sees fit, a sum not exceeding the amount by which the value of the capital investment is depreciated by reason of the disqualification of such premises, which sum shall be determined by a fee, schedule or other method of valuation prescribed by the regulations.

Payment

(2) The Liquor Control Board of Ontario shall pay the compensation mentioned in subsection 1 upon the requisition of the Board. R.S.O. 1950, c. 211, s. 46.

REVENUE

49. All moneys received by the Board from licence fees or otherwise arising in the administration of this Act shall be paid to the Liquor Control Board of Ontario. R.S.O. 1950, c. 211, s. 47. Payment of revenue

SALE OF LIQUOR IN LICENSED PREMISES

50. No liquor shall be kept for sale, sold or served in any licensed premises except such liquor as is, What liquor may be sold

(a) prescribed in the licence; and

(b) purchased by the holder of the licence in accordance with *The Liquor Control Act* and the regulations thereunder. R.S.O. 1950, c. 211, s. 48. R.S.O. 1960, c. 217

51. The Board shall in every licence issued specify the part of the establishment to which the sale, serving and consumption of liquor is restricted and confined. R.S.O. 1950, c. 211, s. 49. Sale of liquor in specified places only

52. Except as permitted by the Board, where two types of public house licences are issued for an establishment, Public house licences, where two issued for establishment

(a) there shall be no internal means of communication between the premises operated under each of such licences;

(b) each of such premises shall have separate entrances for the public;

(c) separate dispensing and other equipment shall be used in serving the public using each of such premises; and

(d) the employees employed in serving the public in each of such premises shall not enter the other of such premises. R.S.O. 1950, c. 211, s. 50.

53.—(1) No liquor shall knowingly be sold or served in or at any licensed premises to any person who is under the age of twenty-one years. R.S.O. 1950, c. 211, s. 51 (1). Minors

(2) No liquor shall be sold or supplied to a person who is apparently under the age of twenty-one years, and in any prosecution for a contravention of this subsection the justice shall determine from the appearance of any such person and other relevant circumstances whether he is apparently under the age of twenty-one years. R.S.O. 1950, c. 211, s. 51 (2); 1953, c. 58, s. 6. Idem

Intoxicated persons

(3) No liquor shall be sold or supplied on or at any licensed premises to or for any person who is apparently in an intoxicated condition. R.S.O. 1950, c. 211, s. 51 (3); 1960, c. 60, s. 6.

Conduct of premises

(4) No person holding a licence under this Act shall permit or suffer in the premises for which the licence is issued,

- (a) any constable or other police officer while on duty to consume any liquor;
- (b) any gambling, drunkenness or any riotous, quarrelsome, violent or disorderly conduct to take place;
- (c) any person of notoriously bad character to remain; or
- (d) any slot machine or any device used for gambling to be placed, kept or maintained.

Minors on premises

(5) No person holding a licence under this Act shall permit or suffer any person under or apparently under the age of twenty-one years to enter or be upon that part of the licensed premises where liquor is sold or kept for sale, except in a dining room or dining lounge.

Objectionable persons

(6) Any person holding a licence under this Act who has reasonable grounds to suspect from the conduct of any person who has come upon the premises in respect of which such licence is issued that such person, although not of notoriously bad character, is present for some improper purpose or is committing an offence against this Act or the regulations, may request such person to leave the licensed premises immediately and, unless the request is forthwith complied with, such person may be forcibly removed. R.S.O. 1950, c. 211, s. 51 (4-6).

Minors

54.—(1) No person under the age of twenty-one years shall have, purchase or consume liquor on any licensed premises.

Idem

(2) Any person under the age of twenty-one years who enters or is found upon that part of a licensed premises where liquor is sold or kept for sale, except in a dining room or dining lounge, is guilty of an offence against this Act. R.S.O. 1950, c. 211, s. 52.

Sale and consumption

55. No liquor may be sold or served to any person or consumed by him in any licensed premises except in accordance with the regulations. R.S.O. 1950, c. 211, s. 53.

Neglecting children

56. No person who is a parent, guardian or head of a family having the care, custody and control of a child under the age of eight years shall enter or remain upon any premises

where liquor is sold or kept for sale while such child is unattended by a competent person. R.S.O. 1950, c. 211, s. 54.

57.—(1) No distillery, brewery, winery or person shall, either directly or indirectly, offer or give any financial or material inducement to any licensee or his agent or employee for the purpose of increasing the sale or distribution of any brand of liquor, whether such inducement is by way of discount, rebate, sale under the established price for products of the same or a similar quantity, or by the installation of equipment or other form of payment or benefit. R.S.O. 1950, c. 211, s. 55. ^{Inducements to licensees}

(2) No licensee, his agent or employee shall, either directly or indirectly, request, demand or receive any financial or material inducement, discount or rebate mentioned in subsection 1. 1960, c. 60, s. 7. ^{Inducements, taking of, prohibited}

58. No person to whom the sale of intoxicating liquor is prohibited by statute of Canada or Ontario and no interdicted person shall enter on or be permitted or suffered to remain in that part of any licensed premises where liquor is sold, except in a dining room or dining lounge. R.S.O. 1950, c. 211, s. 56. ^{Sales to interdicted persons prohibited}

59. Any constable or other police officer may arrest without warrant any person whom he finds committing an offence against this Act or the regulations. R.S.O. 1950, c. 211, s. 57. ^{Arrest without warrant}

PENALTIES AND PROCEDURE

60. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence against this Act whether otherwise so declared or not. R.S.O. 1950, c. 211, s. 58. ^{Offence}

61.—(1) Every person who contravenes subsection 1 of section 53 is guilty of an offence and shall, for the first offence, be imprisoned for a term of not less than one month and not more than three months, and for a second or subsequent offence be imprisoned for a term of not less than four months and not more than twelve months. R.S.O. 1950, c. 211, s. 59 (1). ^{Penalties, s. 53 (1)}

(2) Every person who contravenes subsection 1 of section 57 is guilty of an offence and liable to a fine of not more than \$10,000. R.S.O. 1950, c. 211, s. 59 (2); 1960, c. 60, s. 8 (1). ^{Idem, s. 57 (1)}

(3) Every person who contravenes subsection 2 of section 57 is guilty of an offence and liable to a fine of not more than \$1,000. 1960, c. 60, s. 8 (2). ^{Idem, s. 57 (2)}

Idem,
general

(4) Every person who contravenes any of the provisions of this Act or the regulations, other than subsection 1 of section 53 or section 57, is guilty of an offence and is liable for a first offence to a fine of not less than \$10 and not more than \$500 and in default of immediate payment shall be imprisoned for a term of not more than two months, or to imprisonment for a term of not more than thirty days, or to both fine and imprisonment, and for a second or subsequent offence shall be imprisoned for a term of not more than three months.

Corpora-
tions

(5) Where an offender convicted of an offence referred to in this section, other than a contravention of section 57, is a corporation, it is liable to a fine of not less than \$1,000 and not more than \$3,000. R.S.O. 1950, c. 211, s. 59 (3, 4).

Onus

62. In the prosecution of any offence under this Act in which possession of liquor is an element of the offence, upon *prima facie* proof of such possession, unless the person charged with the offence proves that he did not commit the offence, he may be convicted thereof. R.S.O. 1950, c. 211, s. 60.

Removal
of liquor
packages

R.S.O. 1960,
c. 217

63. Proof of the removal of any liquor from any licensed premises in any package is *prima facie* evidence against the person holding the licence for such premises of the sale of liquor contrary to this Act or *The Liquor Control Act*. R.S.O. 1950, c. 211, s. 61.

Analysis

64. In any prosecution under this Act or the regulations, upon production by a constable or other police officer of a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, the certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature. R.S.O. 1950, c. 211, s. 62.

Inference
as to in-
toxicating
liquor

65. The justice trying a case is at liberty to infer, in the absence of proof to the contrary, that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating, or by a name that is commonly applied to an intoxicating liquor. R.S.O. 1950, c. 211, s. 63.

Recovery
of penalties

R.S.O. 1960,
cc. 387, 217

66.—(1) The penalties imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act* and the provisions of that Act apply to prosecutions thereunder, except that the provisions of *The Liquor Control Act* relating to appeals apply to appeals under this Act.

(2) Subject to section 87, all money penalties imposed under this Act or the regulations, after deducting all necessary costs, shall be paid by the justice to the Liquor Control Board of Ontario. R.S.O. 1950, c. 211, s. 64.

Fines to be
paid to
Liquor
Control
Board

CIVIL LIABILITY

67. Where any person or his servant or agent sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate him or increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold while so intoxicated,

Civil
liability

- (a) commits suicide or meets death by accident, an action under *The Fatal Accidents Act* lies against the person who or whose servant or agent sold the liquor; or
- (b) causes injury or damage to the person or property of another person, such other person is entitled to recover an amount to compensate him for his injury or damage from the person who or whose servant or agent sold the liquor. R.S.O. 1950, c. 211, s. 65.

R.S.O. 1960,
c. 138

EMPLOYEES OF LICENCE HOLDERS

68.—(1) The Board may require every person who, being an employee of a person who operates licensed premises, is in any way engaged in selling or serving liquor, to obtain an employee's licence from the Board in accordance with the regulations.

Employees
of licence
holders

(2) Where, as provided by subsection 1, employees are required by the Board to obtain an employee's licence, no person who is not so licensed shall be employed in the sale or serving of liquor in any licensed premises. R.S.O. 1950, c. 211, s. 66.

Sale by
licensed
employees

LOCAL OPTION

69.—(1) None of the provisions of this Act, except section 23, apply in any area in which the *Canada Temperance Act* is in force.

Areas where
C.T.A. in
force
R.S.C. 1952,
c. 30

(2) Upon the *Canada Temperance Act* ceasing to be in force in any area, this Act applies in such area, but,

Application
of Act upon
C.T.A.
ceasing to
be in force

- (a) in an area where a by-law prohibiting the sale of liquor by retail passed under any Act of the Legislature was in force when the *Canada Temperance Act*

or *The Ontario Temperance Act* came into force, no government stores for the sale of liquor or for the sale of beer only shall be established, no Ontario wine stores shall be authorized and no licences shall be issued until a vote has been taken in the manner provided in section 72; and

- (b) in an area where no by-law prohibiting the sale of liquor by retail passed under any Act of the Legislature was in force when the *Canada Temperance Act* or *The Ontario Temperance Act* came into force, no licences shall be issued in respect of an establishment classified as an hotel, tavern, restaurant or public house until a vote has been taken in the manner provided in section 72.

Machinery
for vote

(3) In every area to which subsection 2 applies, the provisions of section 72 apply *mutatis mutandis* to a vote referred to in subsection 2 that is taken in any municipality therein, notwithstanding that a by-law mentioned in section 70 is not in force in such municipality. R.S.O. 1950, c. 211, s. 67.

Government
stores and
wine stores
not to be
established
in certain
districts

70. Except as provided by this Act and the regulations, no government store for the sale of liquor shall be established, no Ontario wine store shall be authorized and no premises shall be licensed in any municipality or part of a municipality in which at the time of the coming into force of *The Ontario Temperance Act* a by-law passed under *The Liquor Licence Act*, being chapter 215 of the Revised Statutes of Ontario, 1914, or any other Act was in force prohibiting the sale of liquor by retail until a vote has been taken in the manner provided in section 72. R.S.O. 1950, c. 211, s. 68; 1960, c. 60, s. 9.

R.S.O. 1916,
c. 50;
R.S.O. 1914,
c. 215

Provision
for vote in
certain cir-
cumstances

71.—(1) In any municipality to which section 70 does not apply and in which no government store for the sale of liquor or for the sale of beer only has been established and no Ontario wine store has been authorized and no premises have been licensed, the council may, and on petition as provided by section 72 shall, submit to the electors all or any of the questions in section 72.

Where
negative
vote polled

(2) If three-fifths of the electors voting on a question vote in the negative, no government store for the sale of liquor or for the sale of beer only shall be established or no Ontario wine store shall be authorized or no premises shall be licensed, as the case may be, in the municipality. 1951, c. 47, s. 6.

Submission
of question

72.—(1) The council of any municipality in which a by-law mentioned in section 70 is in force or a vote has been taken under section 71 may submit to a vote of the persons qualified

to be entered on the voters' list and to vote at elections to the Assembly in the municipality, any of the following questions:

1. Are you in favour of the establishment of government stores for the sale of liquor?
2. Are you in favour of the establishment of government stores for the sale of beer only for residence consumption?
3. Are you in favour of the authorization of Ontario wine stores for the sale of Ontario wine only for residence consumption?
4. Are you in favour of the sale of beer only under a public house licence for consumption on licensed premises to which women are admitted?
5. Are you in favour of the sale of beer only under a public house licence for consumption on licensed premises to which men only are admitted?
6. Are you in favour of the sale of beer and wine only under a dining room licence for consumption with meals on licensed premises?
7. Are you in favour of the sale of liquor under a dining lounge licence for consumption with meals on licensed premises?
8. Are you in favour of the sale of liquor under a lounge licence for consumption on licensed premises?
R.S.O. 1950, c. 211, s. 69 (1); 1951, c. 47, s. 7.

(2) Where a petition in writing signed by at least 25 per cent of the total number of persons appearing by the last revised list of the municipality to be resident in the municipality and qualified to vote at elections to the Assembly, requesting the council to submit one or more of the questions set out in subsection 1 is filed with the clerk of the municipality and with the Board, the council shall submit such question or questions to a vote of the electors.

(3) Where three-fifths of the electors voting on the question vote in the affirmative, it is lawful to establish government stores, authorize Ontario wine stores or issue licences in the municipality accordingly. R.S.O. 1950, c. 211, s. 69 (2, 3).

73.—(1) Where a government store is established, an Ontario wine store authorized, or premises licensed in a municipality, the council may, and on petition as provided in section 72, which section applies *mutatis mutandis*, shall

submit to the electors whichever of the following questions are applicable:

1. Are you in favour of the continuance of government stores for the sale of liquor?
2. Are you in favour of the continuance of government stores for the sale of beer only for residence consumption?
3. Are you in favour of the continuance of the authorization of Ontario wine stores for the sale of Ontario wine only for residence consumption?
4. Are you in favour of the continuance of the sale of beer only under a public house licence for consumption on licensed premises to which women are admitted?
5. Are you in favour of the continuance of the sale of beer only under a public house licence for consumption on licensed premises to which men only are admitted?
6. Are you in favour of the continuance of the sale of beer and wine only under a dining room licence for consumption with meals on licensed premises?
7. Are you in favour of the continuance of the sale of liquor under a dining lounge licence for consumption with meals on licensed premises?
8. Are you in favour of the continuance of the sale of liquor under a lounge licence for consumption on licensed premises?

Where
negative
vote polled

(2) Where three-fifths of the electors voting on the question or questions vote in the negative, from and after the 31st day of March in the following year, any government store established in the municipality shall be closed, the authority of any Ontario wine store authorized in the municipality shall be terminated or licences of any class for premises in the municipality shall be discontinued, as the case may be, in accordance with the question or questions submitted and voted upon. R.S.O. 1950, c. 211, s. 70.

Questions
to be
submitted

74. Where petitions are presented praying for the submission of a definite question or set of questions, the question or questions to be submitted shall be that or those asked for in the first petition filed, unless the Board otherwise directs. R.S.O. 1950, c. 211, s. 71.

75. Where a question is submitted in a municipality under section 71, 72 or 73, neither that question nor any other question shall be submitted in the municipality until after the expiration of a period of three years from the date of such submission. R.S.O. 1950, c. 211, s. 72; 1951, c. 47, s. 8, *part*.

Questions not to be submitted again for three years

76.—(1) At least five weeks before the taking of a vote upon any question under section 71, 72 or 73 the electors interested in obtaining an affirmative answer and a negative answer respectively to the question or questions may notify the returning officer in writing, signed by at least twenty-five electors, that they have appointed a manager for their side of the question or questions and the manager may appoint agents at the polling places and generally has all the powers and shall perform all the duties and is subject to the like provisions as far as practicable as a candidate at an election to the Assembly, and in case more than one person is named as manager, the first person named on either side shall be manager. R.S.O. 1950, c. 211, s. 73 (1); 1951, c. 47, s. 9 (1).

Appointment of managers for vote

(2) When a petition has been filed with the clerk of the municipality pursuant to section 71, 72 or 73, the clerk shall give notice in writing of the filing to each of the managers, and the managers are, for a period of four weeks from the date of such notice, entitled to examine and inspect the petition. R.S.O. 1950, c. 211, s. 73 (2); 1951, c. 47, s. 9 (2).

Notice of filing of petition

77. The day fixed for taking the vote on any question or questions shall be the day upon which under *The Municipal Act*, or any by-law passed under that Act, a poll would be held at the annual election of members of the council of the municipality, unless the Board fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be. R.S.O. 1950, c. 211, s. 74.

Date of polling
R.S.O. 1960,
c. 249

78. The persons qualified to vote upon a question or questions are such persons as are named upon the polling list and would be qualified in other respects to vote at an election to the Assembly held on the day fixed for taking the poll upon the question or questions; provided that in the event of the taking of a vote under section 73, notwithstanding anything contained in any Act, persons resident in any part of a municipality in which at the time of the coming into force of *The Ontario Temperance Act* a by-law under *The Liquor Licence Act* being chapter 215 of the Revised Statutes of Ontario, 1914,

Who may vote

1916, c. 50
R.S.O. 1914,
c. 215

or under any other Act was in force prohibiting the sale of liquor by retail, are not entitled to sign a petition pursuant to this section, except a petition respecting only such part of the municipality, and are not entitled to vote on the said question or questions until a vote has been taken in such part of the municipality on one or more of the questions set out in subsection 1 of section 72, and three-fifths of the electors voting on such question or questions have voted in the affirmative. R.S.O. 1950, c. 211, s. 75.

Application
of general
law
R.S.O. 1960,
cc. 118, 420

79.—(1) Except as otherwise provided by this Act, the provisions of *The Election Act* and *The Voters' Lists Act* respecting,

- (a) the preparation and revision of the lists;
- (b) the time and manner of holding the poll;
- (c) the holding of advance polls;
- (d) the forms to be used and the oaths to be administered;
- (e) the powers and duties of returning officers, deputy returning officers and poll clerks,

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions apply to the taking of a vote under this Act.

Directions
as to taking
vote

(2) Subject to the approval of the Lieutenant Governor in Council, the Chief Election Officer shall give such directions and make such regulations and prepare such forms as appear to him to be necessary in carrying out sections 70 to 83 and for the guidance of returning officers and other officers and persons employed in the taking of the vote, and may modify or alter any of the provisions of *The Election Act* or *The Voters' Lists Act* when compliance therewith appears to be inconvenient, impracticable or unnecessary and may make due provision for circumstances that may arise and that are not provided for or contemplated by sections 70 to 83.

Forms

(3) The forms to be used at the taking of the vote upon a question or questions shall be the same as nearly as may be as the forms used at an election to the Assembly, but such forms may be modified and altered to such extent as is necessary.

Clerk of
revision

(4) The clerk of the municipality shall perform the duties imposed upon the clerk of the revising officer by Part III of *The Voters' Lists Act*. R.S.O. 1950, c. 211, s. 76.

Revision
of lists

80.—(1) The voters' lists shall be revised as provided in *The Voters' Lists Act* with respect to the revision of the lists at an election to the Assembly, and polling lists shall be pre-

pared as provided by *The Election Act*, and the chairman of the election board may generally take all the proceedings that may be taken by the board in the case of an election to the Assembly.

(2) The chairman is entitled to a fee of \$10 for every day upon which a sitting is actually held and his actual and necessary travelling expenses. ^{Chairman's fees}

(3) It is not necessary for the polling lists for use at the taking of a vote to be printed, nor is it necessary to prepare more copies than are required to provide one copy of the list for each polling place, one copy for the returning officer and two copies for persons representing those supporting the affirmative and negative respectively. R.S.O. 1950, c. 211, s. 77. ^{Polling lists}

81. The fees and expenses to be allowed to returning officers and other officers and servants for services performed under sections 70 to 83, and the expenses incurred in carrying out such sections shall be fixed by the Lieutenant Governor in Council and shall be taxed and allowed by the chairman of the election board and paid by the treasurer of the municipality to the persons entitled thereto. R.S.O. 1950, c. 211, s. 78. ^{Fees and expenses}

82.—(1) The returning officer upon the taking of a vote shall be the clerk of the municipality, or, in case of his inability to act or of a vacancy in the office, some person to be appointed by by-law of the municipal council. R.S.O. 1950, c. 211, s. 79 (1). ^{Returning officer}

(2) The returning officer shall make his return to the Chief Election Officer showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Chief Election Officer shall make his return to the Lieutenant Governor in Council and give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions. R.S.O. 1950, c. 211, s. 79 (2); 1954, c. 45, s. 1. ^{Return to Chief Election Officer}

83.—(1) Notwithstanding anything in this or any other Act, where the validity of a vote on any question or questions submitted under this Act is questioned, the provisions of Part IV of *The Municipal Act* relating to proceedings to declare a seat vacant, apply *mutatis mutandis*, and any notice of motion required under that Part shall be served on such person as the judge or master, as defined in that Part, directs. ^{Where validity of vote questioned}
^{R.S.O. 1960, c. 249}

Recounts

(2) Notwithstanding anything in this or any other Act, where a recount of a vote on any question or questions submitted under this Act is requested, sections 121 and 122 of *The Municipal Act* apply *mutatis mutandis*. R.S.O. 1950, c. 211, s. 80.

AMALGAMATIONS, ETC.

Amalgamations,
annexations,
not to affect
status quo
under Act

84.—(1) No amalgamation of a municipality with another municipality and no annexation of the whole or a part of a municipality to another municipality affects the operation of this Act at the time of the amalgamation or annexation in the municipality amalgamated or municipality or part annexed or elsewhere until such operation is affected pursuant to a vote under this Act in the municipality amalgamated or municipality or part annexed, as the case may be.

Who
entitled
to vote

(2) The persons qualified to vote upon any question or questions or to sign a petition pursuant to section 72 or 73 are the persons who are resident in the municipality amalgamated or municipality or part annexed, as the case may be, and who are qualified to be entered on the voters' list and to vote at elections to the Assembly. 1951, c. 47, s. 10.

REGULATIONS

Regulations

85. The Board, with the approval of the Lieutenant Governor in Council, may make such regulations with respect to any and all matters and things provided for in this Act as the Board deems necessary, and without limiting the generality of the foregoing, such powers extend to and include,

- (a) prescribing the special accommodation, facilities and equipment that shall be required in or in respect of the various classes of premises for which the various classes of licence may be issued including the prescribing of different standards of accommodation, facilities and equipment in different classes of establishments;
- (b) providing for different classes of clubs and prescribing the manner in which clubs of the different classes shall be organized and the special accommodation, facilities and equipment that shall be required, and in the case of any class of clubs, prescribing who shall be deemed to be members thereof for the purposes of this Act;
- (c) prescribing the special services that shall be furnished in a dining lounge;

- (*d*) restricting the classes of licences that may be issued to any class of establishments;
- (*e*) restricting the scope and effect of licences of the various classes and prescribing terms and conditions governing the sale of liquor and other relevant matters relating to the operation of premises for which licences of the various classes are issued;
- (*f*) prescribing the fees payable in respect of the issue and transfer of licences, including the prescribing of fees in varying amounts for licences issued in respect of various classes of establishments;
- (*g*) prescribing the fees, schedules or other methods of valuation by which monopoly value and depreciation shall be determined for the purposes of sections 45 and 48;
- (*h*) governing and regulating premises in respect of which licences may be issued;
- (*i*) governing the issue, renewal, transfer, refusal, suspension and cancellation of licences;
- (*j*) governing the location, construction, maintenance, management and operation of licensed premises;
- (*k*) governing the issue and cancellation of banquet, entertainment or military mess permits and prescribing the fees payable in respect of the issue of such permits;
- (*l*) governing the purchase, delivery, keeping for sale, sale, serving and consuming of liquor;
- (*m*) prescribing the persons to whom the sale of liquor is to be restricted or prohibited;
- (*n*) prescribing the periods of the year and the days and hours when liquor may be sold, served and consumed and providing for the alteration thereof by the Board in respect to individual holders of a licence or in any municipality or prescribed area;
- (*o*) providing for the licensing of employees of persons operating licensed premises and prescribing requirements applicable to such employees;
- (*p*) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to licensed premises and the examination and audit that shall be made of such books and records;

- (q) prescribing the duties of the registrar, deputy registrars, officials, inspectors and employees of the Board and the books of account and other records to be kept by the Board;
- (r) prescribing the official seal of the Board and the form of applications and notices to be used for the purposes of this Act and the manner of effecting service;
- (s) prescribing the signs that may be erected on or in licensed premises;
- (t) prescribing the hours and days upon which and the manner, methods and means by which liquor shall be delivered to licensed premises;
- (u) prescribing the offences against the laws of Canada and Ontario, conviction of which by any person shall disqualify him from holding a licence;
- (v) governing the manner of incorporation of corporations that may hold licences;
- (w) prescribing the procedure to be followed upon applications to the Board;
- (x) prescribing the form of ballots to be used for voting upon a question submitted in a municipality; and
- (y) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 211, s. 81.

REPORTS

Reports

86.—(1) The Board shall from time to time make reports to the Lieutenant Governor in Council covering such matters in connection with the administration of this Act as he requires, and shall annually make to the Lieutenant Governor in Council, through the Minister, a report for the twelve months ending on the 31st day of March in the year in which the report is made, which shall contain,

- (a) a statement of the operations of the Board;
- (b) a statement of the number of licences in existence and the names of the owners thereof at such 31st day of March;
- (c) a detailed statement of the number of licences which were issued, renewed, transferred, cancelled or suspended and the names of the owners thereof;

- (d) the details of any compensation awarded;
- (e) a statement of the expenses of the Board;
- (f) general information and remarks as to the working of the Act; and
- (g) any information requested by the Minister.

(2) Every annual report shall be laid before the Assembly as soon as may be. R.S.O. 1950, c. 211, s. 82.

Report to
be presented
to Assembly

AGREEMENT WITH MUNICIPALITY

87. Subject to the approval of the Lieutenant Governor in Council, the Board may enter into an agreement with the council of any municipality for the enforcement in the municipality by the council of this Act, *The Liquor Control Act* and the regulations hereunder and thereunder, and may in such agreement provide for the payment to the council of,

Agreement
with muni-
cipality

R.S.O. 1960,
c. 217

- (a) a portion of the fees for licences issued in respect of establishments in the municipality; and
 - (b) the fines or a portion of the fines imposed in prosecutions instituted by officers designated by the council pursuant to the agreement, for a contravention of this Act, *The Liquor Control Act* or the regulations hereunder or thereunder in the municipality. R.S.O. 1950, c. 211, s. 83.
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CHAPTER 219

The Live Stock and Live Stock Products Act**1. In this Act,**Interpre-
tation

- (a) "commission merchant" means a person, partnership, corporation or co-operative association engaged in the business of buying or selling live stock or live stock products for a commission;
- (b) "Commissioner" means the Live Stock Commissioner;
- (c) "grade" means the classification of any live stock or live stock product according to the prescribed standards;
- (d) "inspector" means an inspector appointed for the purposes of this Act;
- (e) "live stock" means cattle, swine, sheep or live poultry;
- (f) "live stock product" means meat, raw hides, dressed poultry, eggs or wool;
- (g) "Minister" means the Minister of Agriculture;
- (h) "regulations" means the regulations made under this Act;
- (i) "shipper" means a person who assembles, ships, transports or offers for sale any live stock or live stock product on his own account or as an agent;
- (j) "stock yard" means any premises used as a market for purchasing and selling live stock designated a stock yard by the regulations. R.S.O. 1950, c. 212, s. 1.

2. The Lieutenant Governor in Council may authorize one or more persons engaged in the production or marketing of live stock or live stock products to act as an advisory committee with the Minister or his representatives in connection with the production or marketing of any live stock or live stock product. R.S.O. 1950, c. 212, s. 2.

Advisory
committee

Appoint-
ment of
inspectors

3. The Lieutenant Governor in Council may appoint one or more inspectors for the purposes of this Act and may fix their remuneration and allowance for expenses. R.S.O. 1950, c. 212, s. 3.

Power of
inspectors

4.—(1) Any inspector, for the purpose of enforcing this Act and the regulations, may,

- (a) enter any place, premises or vehicle containing or used for the storage or carriage of any live stock or live stock product;
- (b) stop on a highway any vehicle that he believes to contain any live stock or live stock product and inspect the vehicle and any live stock or live stock product found therein;
- (c) require the production of any books, records or other documents relating to any live stock or live stock product or the furnishing of copies of or extracts from such books, records or other documents;
- (d) take samples of any live stock product in the manner prescribed by the regulations;
- (e) delay the shipment of any live stock or live stock product for the time necessary to complete his inspection thereof;
- (f) refuse to inspect or mark or give any certificate respecting any live stock or live stock product found in any place, premises or vehicle deemed by him to be unsanitary or unsuitable for inspection purposes;
- (g) seize and detain any live stock or live stock product that has been manufactured, packed, branded, labelled, marked, shipped or transported in contravention of this Act or the regulations, and, subject to any order made by the Minister under section 5, require the owner to remove such live stock or live stock product from the place of detention at the expense of the owner.

Obstruction

(2) No person shall obstruct any inspector in the performance of his duties or refuse to permit the inspection of any live stock or live stock product or furnish any inspector with false information.

Production
of records

(3) Every person shall, when required by an inspector, produce any books, records or other documents relating to any live stock or live stock product or copies of or extracts from such books, records or other documents. R.S.O. 1950, c. 212, s. 4.

5.—(1) Any live stock or live stock product seized or detained by an inspector shall be disposed of as the Minister directs. Disposal of seized live stock, etc.

(2) Any live stock or live stock product seized, detained or disposed of under this Act is at the risk and expense of the owner thereof, and the inspector shall immediately notify the owner that such live stock or live stock product has been seized, detained or disposed of, as the case may be. R.S.O. 1950, c. 212, s. 5. Live stock seized and detained at expense of owner, etc.

6.—(1) The Lieutenant Governor in Council may make regulations Regulations,
regulations,

- (a) establishing and describing standards for the purpose of grading any live stock or live stock product;
- (b) providing for the issue of grading certificates and prescribing the form thereof;
- (c) prescribing the manner in which samples of any live stock product may be taken for inspection;
- (d) providing for and prescribing the manner and conditions of grading, inspection, packing, branding and marking of any live stock or live stock product;
- (e) prescribing the manner in and the conditions under which any live stock or live stock product shall be stored, transported, delivered, shipped, advertised, purchased, sold, offered or displayed for sale and the types, sizes, branding, marking and labelling of packages or containers in which any live stock or live stock product shall be contained;
- (f) prescribing the manner in which the seller or shipper of ungraded live stock and live stock products shall identify, for purposes of grading, individual producer's lots in any shipment;
- (g) prescribing the manner in which a receiver shall make returns and prepare for presentation to the seller or shipper the statements of account of purchase of any live stock or live stock product and for the investigation of such statements and the transactions represented thereby;
- (h) prescribing the manner in which receipts, classifications, weights and purchase prices shall be recorded at assembling points and abattoirs and made available to the Minister;
- (i) prescribing the grades of eggs that may be broken or dried in any egg-breaking plant;

- (j) prescribing the manner in which stock yards shall be constructed, equipped, maintained and operated;
- (k) prescribing the manner in which complaints against the maintenance and operation of any stock yard shall be made and investigated;
- (l) prescribing the manner in which complaints against any live stock exchange or any member of a live stock exchange shall be made and investigated;
- (m) prescribing the manner in which business shall be conducted by members of a live stock exchange and by persons using a stock yard;
- (n) designating any premises a stock yard for the purposes of this Act;
- (o) classifying persons dealing in live stock or live stock products;
- (p) providing for the licensing by the Commissioner of any class or classes of persons dealing in any live stock or live stock product, prescribing the forms and terms of licences, the fees to be paid therefor and the conditions under which they shall be issued;
- (q) providing for the renewal, suspension and cancellation of such licences and the reinstatement of suspended or cancelled licences; R.S.O. 1950, c. 212, s. 6 (1), cls. (a-q).
- (r) prescribing the manner in which any live stock or live stock product shall be detained by an inspector; 1954, c. 46, s. 1.
- (s) exempting from this Act or the regulations or any part thereof any person or group of persons;
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 212, s. 6 (1), cls. (r, s).

Regulation
may be
limited

(2) Any regulation may be limited as to time and place. R.S.O. 1950, c. 212, s. 6 (2).

Offence

7. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$1,000 for any subsequent offence. R.S.O. 1950, c. 212, s. 7.

CHAPTER 220

The Live Stock Branding Act

1. In this Act,

Interpre-
tation

- (a) "brand" means a letter, sign or numeral, or any combination of them, recorded as allotted;
- (b) "Department" means the Department of Agriculture;
- (c) "live stock" means a horse, head of cattle, sheep or fowl;
- (d) "Minister" means the Minister of Agriculture.
R.S.O. 1950, c. 213, s. 1, *amended*.

2.—(1) No person shall brand any live stock except with a brand allotted by the Minister and to which he is entitled under this Act.

Branding
of live
stock

(2) Every such brand shall be recorded as in this Act provided and the fees payable are those set out in the Schedule.

Recording
brand

(3) A brand so allotted is not good for a longer period than three years, unless it is renewed by the owner.

Renewal of
brand

(4) Any owner of a brand is entitled to transfer the ownership of it to any person upon applying to the Minister and complying with the requirements laid down by the Minister to effect the transfer. R.S.O. 1950, c. 213, s. 2.

Transfer
of brand

3.—(1) Upon the recording in the books of the Department of any allotment or transfer of a brand, the person in whose name the brand is last recorded becomes the owner of the brand and of all the rights thereof and therein, and is entitled to a certificate of the allotment or transfer and of the recorded entry of the brand, and the production of the certificate is *prima facie* evidence of the ownership of the certificate without any further proof of the signature of the officer or other person signing the certificate.

Certificate
of transfer

(2) In case any owner under this Act forfeits his right to ownership of a brand, the brand shall not be allotted to any person for a period of at least three years. R.S.O. 1950, c. 213, s. 3.

Right to
ownership

Record of
all brands

4. The Live Stock Commissioner shall be the recorder of brands and shall receive applications, keep a record of all brands allotted and make transfers and cancellations in accordance with this Act. R.S.O. 1950, c. 213, s. 4.

List of
brands
may be
published

5. The Minister may cause to be published from time to time a complete list of the brands recorded under this Act. R.S.O. 1950, c. 213, s. 5.

Regulations

6. The Minister may make regulations prescribing forms and providing for their use and as are necessary for the better carrying out of the provisions of this Act. R.S.O. 1950, c. 213, s. 6.

Offences

7. Every person who,

- (a) improperly and wrongfully brands or causes to be branded any live stock with a brand that has been recorded as required by this Act or the regulations, and that has not been cancelled thereunder; or
- (b) brands or causes to be branded with his own brand any live stock of which he is not the owner without the authority of the owner; or
- (c) defaces, obliterates or otherwise renders illegible, or causes to be defaced, obliterated or otherwise rendered illegible any brand upon any live stock; or
- (d) brands or causes to be branded any live stock with an unrecorded brand,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 213, s. 7.

SCHEDULE

FEES

On application for allotment of a brand for a period of 3 years. . . .	\$1.00
On application for renewal of an allotment of a brand for a further period of 3 years.	1.00
On application for change in the record of a brand.50
On every transfer of a recorded brand.50
For every search of a brand record.50
For every certified extract from the brand recorded.50

R.S.O. 1950, c. 213, Sched.

CHAPTER 221

The Live Stock Community Sales Act**1. In this Act,**Interpre-
tation

- (a) "Commissioner" means the Live Stock Commissioner;
- (b) "community sale" means a sale or offering for sale of live stock by public auction held at an established place of business where live stock is assembled for the purpose;
- (c) "inspector" means an inspector appointed for the purposes of this Act;
- (d) "licence" means a licence under this Act;
- (e) "live stock" means cattle, horses, sheep or swine, or the young thereof;
- (f) "operator" means a person engaged in the business of operating community sales;
- (g) "premises" means the land, buildings and structures at the place of business of an operator;
- (h) "regulations" means the regulations made under this Act;
- (i) "veterinarian" means a veterinarian appointed under this Act. 1959, c. 53, s. 1.

2. This Act does not apply to,Where Act
does not
apply

- (a) a sale at a stock yard operated by the Ontario Stock Yards Board;
- (b) a sale of live stock by a local board or marketing agency under *The Farm Products Marketing Act*;
- (c) a sale held for the purpose of selling pure bred live stock; or
- (d) a sale held for the purpose of selling feeder cattle.

R.S.O. 1960,
o. 137

1959, c. 53, s. 2.

Licence

3. No person shall engage in the business of operating community sales without a licence therefor from the Commissioner. 1959, c. 53, s. 3.

Conditions of licence

4. Every licence is subject to the conditions that the operator,

- (a) maintains the security required by the regulations;
- (b) is in possession of premises that have at least one building for the stabling of the live stock that is assembled for the purpose of sale; and
- (c) complies with this Act and the regulations and any other condition that is imposed by the regulations. 1959, c. 53, s. 4.

Requirements for premises

5. No operator shall hold a community sale unless,

- (a) every building in which live stock is kept is subdivided into areas so that each class of live stock may be kept separately and so that the live stock that is designated for sale for purposes other than slaughter may be kept separate from the live stock that is designated for sale for slaughter;
- (b) facilities for watering live stock are provided in each separate area in which live stock is kept;
- (c) every floor of every building used for keeping live stock and every passageway over which live stock passes has a reasonably smooth and impermeable surface;
- (d) every wall, partition, barrier, fence, manger, trough and other structure or part thereof with which live stock may come into contact is free from sharp projections and obstructions that may injure live stock;
- (e) a room is provided in a convenient location for the use of a veterinarian as an office and as a laboratory equipped with such facilities as are required by him in the course of his duties under this Act and the regulations; and
- (f) a set of scales with a weighing capacity of at least 3,000 pounds is installed and maintained in good operating condition. 1959, c. 53, s. 5.

Number of live stock on premises

6. No operator shall assemble live stock for a community sale in greater numbers than may be kept, fed, watered and otherwise cared for on the premises without overcrowding or risk of injury. 1959, c. 53, s. 6.

7. The Lieutenant Governor in Council may appoint such ^{Appointment of veterinarians} veterinarians as are required for the purposes of this Act. 1959, c. 53, s. 7.

8. A community sale shall not be held until a veterinarian, ^{Conditions precedent to sale}
- (a) has inspected the premises at which the sale is to be held;
 - (b) has examined or inspected all live stock that is to be offered for sale; and
 - (c) has carried out such other duties as are prescribed by the regulations. 1959, c. 53, s. 8.

9. Every operator shall, at least twelve hours before any ^{Cleaning of premises before sale} live stock is received on his premises for the purpose of a community sale, clean and disinfect the premises in such manner as the regulations prescribe. 1959, c. 53, s. 9.

10. Every operator shall keep for at least twelve months ^{Records} after each community sale a record of the sale showing,

- (a) the names and addresses of the sellers and buyers of the live stock;
- (b) the dates of arrival at and departure from his premises of the live stock;
- (c) an identification or description of the live stock;
- (d) the sale price of the live stock; and
- (e) where the live stock is sold by weight, the weight thereof. 1959, c. 53, s. 10.

11.—(1) The Commissioner or an inspector or a veterinarian ^{Powers of entry} may enter any premises for the purpose of enforcing this Act.

(2) No person shall obstruct the Commissioner or an inspector or a veterinarian in the performance of his duties or refuse to permit the inspection of any live stock or furnish him with false information. ^{Obstruction}

(3) Every person shall, when required by the Commissioner or an inspector, produce any books, records or other documents relating to any live stock assembled or sold at a community sale. ^{Production of records} 1959, c. 53, s. 11.

Offence

12. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$100 and for a second or subsequent offence to a fine of not more than \$500. 1959, c. 53, s. 12.

Regulations

13. The Lieutenant Governor in Council may make regulations,

- (a) establishing classes of community sales and limiting the application of any regulation to any such class;
 - (b) providing for the issue, renewal, refusal to grant or renew, suspension and revocation of licences;
 - (c) providing for a person whose licence is refused, suspended, revoked or not renewed to show cause why the licence should not be refused, suspended, revoked or should be renewed, as the case may be;
 - (d) prescribing additional conditions to those mentioned in section 4;
 - (e) prescribing the fee payable for a licence and for the renewal thereof;
 - (f) requiring the bonding of operators and prescribing the amount and form of such bonds, the classes of securities that are acceptable as collateral security, the period that bonds shall subsist, the condition upon which bonds may be forfeited, and respecting all matters subsequent to forfeiture;
 - (g) prescribing the duties of veterinarians and inspectors;
 - (h) respecting the times of delivery of live stock to premises and the hours for holding community sales;
 - (i) respecting the conditions under which live stock shall be assembled or offered for sale at community sales;
 - (j) prescribing the manner in which premises shall be cleaned and disinfected;
 - (k) designating diseases and providing for the disposal of live stock found infected with any such disease;
 - (l) prescribing forms and providing for their use;
 - (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1959, c. 53, s. 13.
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CHAPTER 222

The Loan and Trust Corporations Act**1. In this Act,**Interpre-
tation

- (a) “accountant” means a member of the Institute of Chartered Accountants of Ontario or of the Certified Public Accountants Association of Ontario or such other person as is approved by the Registrar as being a qualified accountant for the purpose of auditing the books and accounts of corporations under this Act;
- (b) “chief agency” means the principal office or place of business in Ontario of a corporation that has its head office out of Ontario;
- (c) “corporation” means a loan corporation, a loaning land corporation or a trust company;
- (d) “due application” includes the furnishing of information, evidence and material required by the Registrar, and the payment of the prescribed fees in respect of any application, certificate or document required or issued under this Act, and also the payment to the Treasurer of Ontario of all taxes due and payable by the applicant company under any Act, *
- (e) “extra provincial corporation” means a corporation that was not incorporated under the law of Ontario;
- (f) “head office” means the place where the chief executive officers of the corporation transact its business;
- (g) “law of Ontario” includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;
- (h) “loan corporation” means an incorporated company, association or society, constituted, authorized or operated for the purpose of lending money on the security of real estate, or for that and any other purpose, but does not include a chartered bank, an insurance corporation, a loaning land corporation, a trust company, or an investment company registered under *The Investment Contracts Act*;

R.S.O. 1960,
c. 194

- (i) "loaning land corporation" means a corporation incorporated for the purpose of lending money on the security of real estate and of carrying on the business of buying and selling land;
- (j) "Minister" means the member of the Executive Council under whose direction this Act is administered;
- (k) "paid in", as applied to the capital stock of a corporation or to any of its shares, means the amount paid to it on its shares, not including the premium, if any, paid on such shares, whether such shares are or are not fully paid up;
- (l) "paid up", when applied to a share, means a share on which there remains no liability, actual or contingent, to the issuing corporation;
- (m) "permanent stock" or "permanent shares" includes all stock or all shares of permanent or fixed capital not liable to be withdrawn from or repaid by the corporation;
- (n) "provincial corporation" means a corporation incorporated under the law of Ontario;
- (o) "real estate" includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein;
- (p) "registered corporation" means a corporation registered under this Act;
- (q) "Registrar" means the Registrar appointed under this Act;
- (r) "trust company" means a company constituted or operated for the purpose of acting as trustee, bailee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor's estate, or committee of a mentally incompetent person's estate. R.S.O. 1950, c. 214, s. 1.

Application

2.—(1) This Act applies, according to its context, to every corporation within the meaning of this Act.

Idem

(2) With respect to every provincial corporation, whether formed or incorporated before or after the passing of this Act and whether formed or incorporated by or under a special

or general Act or by letters patent or otherwise, any provision of the Act or letters patent or other instrument of incorporation that is inconsistent or in conflict with the provisions of this Act does not apply.

(3) Sections 3 to 58, except sections 29 and 45, apply only ^{Idem} to provincial corporations. R.S.O. 1950, c. 214, s. 2.

INCORPORATION OF LOAN CORPORATIONS, LOANING LAND CORPORATIONS AND TRUST COMPANIES

3.—(1) An application for the incorporation of a loan ^{Application for incorporation} corporation, a loaning land corporation or a trust company shall be made by petition to the Lieutenant Governor in Council through the Minister in the prescribed form, and shall be delivered to the Registrar.

(2) The applicants shall for one month next before filing ^{Notice of application} their application with the Registrar publish a notice thereof in *The Ontario Gazette*, and shall also before such filing give a like notice at least once in a newspaper published in the locality in which the head office is to be established.

(3) The notice shall state the proposed corporate name, ^{Contents} the location of the head office, which shall be in Ontario, the purposes of the corporation, and for what amount of permanent capital stock authorization will be asked, with the number of shares and the par value of the shares.

(4) The applicants shall furnish such further information ^{Further information} as is required by the Minister or the Registrar.

(5) The application shall be accompanied by the original, ^{Application to be accompanied by a declaration} or one of the duplicate originals, of a declaration adopted at a general meeting of the promoters, and executed under their respective hands and seals by at least twenty-five persons present at the meeting who are subscribers for shares.

(6) The declaration shall set out the names in full and the address and calling of each of the declarants and shall declare that the declarants assembled at.....on..... ^{Contents of declaration} (*naming the place and time*);being chairman, andbeing secretary of the meeting (*naming them*) did there and then agree to constitute themselves a provisional corporation by the name of (*mentioning the proposed corporate name*) under *The Loan and Trust Corporations Act* and under the proposed by-laws there and then adopted, and annexed to the declaration, also that the five persons (*naming them*) were elected provisional directors.

(7) The Minister may refer the application or any question ^{Reference to Registrar} arising thereunder to the Registrar for a report, and the Registrar shall report thereon. R.S.O. 1950, c. 214, s. 3.

By-laws to
accompany
declaration

4.—(1) Three copies of the proposed by-laws shall accompany the declaration, one copy duly certified being annexed thereto.

What they
shall provide
for

(2) Subject to this Act, the by-laws shall,

- (a) provide for the proposed corporate name, and the location of the head office of the corporation;
 - (b) set out the purposes for which the corporation is to be constituted;
 - (c) declare that the capital stock of the corporation consists exclusively of permanent capital stock divided into a stated number of shares each of a stated uniform amount, and declare what respective amounts of the capital stock are before the commencement of business to be authorized, subscribed, and paid in, with the proviso that no shares are to be issued at a discount, or upon any terms, agreement or understanding that the taker or holder is liable for any less amount than the par value of the shares, less the calls paid thereon;
 - (d) in the case of a loan or a loaning land corporation, define and regulate the exercise of such general powers of borrowing as are by this Act conferred upon loan corporations and loaning land corporations, and declare within what limits such borrowing powers are to be exercised, and whether by issuing debentures or otherwise;
 - (e) provide for the holding of general meetings, ordinary and special, of the shareholders;
 - (f) provide for the election of directors, prescribe their number, powers, duties, and term of office, and the number necessary to constitute a quorum;
 - (g) provide that security in amounts satisfactory to the board of directors is to be taken for the fidelity of the person or persons having custody or control of the funds of the corporation;
 - (h) provide for amendment of the by-laws by the shareholders in general meeting; and
 - (i) provide that no transfer of shares of the corporation may be made that has the effect of reducing the number of shareholders to less than twenty-five.
- R.S.O. 1950, c. 214, s. 4.

Stock sub-
scription

5. A sworn copy of the stock subscription shall also be filed with the Registrar containing such particulars as he requires. R.S.O. 1950, c. 214, s. 5.

6. If, on receiving an application for incorporation, the Minister finds in the by-laws anything repugnant to this Act or to the law of Ontario, he may direct an amendment of the by-laws, and, upon their being amended as directed and returned certified as having been so amended, the application may be proceeded with. R.S.O. 1950, c. 214, s. 6.

Minister
may direct
amendment
of by-laws

7. The by-laws accompanying the declaration mentioned in section 3 with such amendments as have been required by the Minister, are the first by-laws of the corporation and take effect on the date of the incorporation. R.S.O. 1950, c. 214, s. 7.

First
by-laws of
corporation

8.—(1) For the purpose of incorporation, the applicants shall file with the Registrar an affidavit showing that at least \$300,000 of stock has been subscribed for and taken up *bona fide* by at least twenty-five responsible subscribers, each of the applicants holding in his own name and for his own use shares of an aggregate par value of at least \$1,000 and has paid in cash all calls due thereon and all liabilities incurred by him to the corporation, and that, in the case of trust companies, at least \$100,000, and in other cases, at least \$50,000, of such subscribed stock has been paid in cash by the subscribers into a branch in Ontario of a chartered bank, in trust for the proposed corporation, free from all liability on the part of the proposed corporation or any of the subscribers to make repayment of the same or any part thereof to any person, firm or corporation, and that each subscriber has out of his own money, contributed to the amount so paid in rateably according to the amount of shares subscribed for by him.

Affidavit
as to sub-
scription
and
payment

(2) Where the corporation is to be constituted for the purpose of acquiring the assets of one or more existing corporations and the proposed consideration for the transfer of the assets is to consist wholly or in part of shares of the capital stock of the new corporation, the Lieutenant Governor in Council may dispense with the requirements of subsection 1 as to subscription and payment to such extent as he deems proper. R.S.O. 1950, c. 214, s. 8.

New cor-
poration
acquiring
assets of
existing
corporation

9.—(1) All stock and shares in any corporation incorporated after the 17th day of March, 1900, shall be fixed, permanent and non-withdrawable.

All stock
to be
permanent

(2) Any corporation that did not issue terminating stock or shares on or before the 17th day of March, 1900, shall not make or issue such stock or shares.

Unless
issued prior
to 17th
March, 1900

(3) Notwithstanding the repeal of certain Acts and parts of Acts by section 143 of *The Loan and Trust Corporations Act*, being chapter 34 of the Statutes of Ontario, 1912, the

Saving as
to law
applicable to
terminating
shares

law of Ontario that, on the 16th day of April, 1912, was in force and applied to corporations having terminating or withdrawable stock or shares, continues in force and applies to such corporations so long as such stock or shares subsist. R.S.O. 1950, c. 214, s. 9.

Letters
patent

10.—(1) A grant of incorporation shall be by letters patent.

Contents

(2) The letters patent shall set forth the name under which, and the date at which, the corporation became incorporated, the location of the head office, the amount of stock authorized, and the business to be undertaken by the corporation, distinguishing between the classes of business mentioned in section 111. R.S.O. 1950, c. 214, s. 10.

Term

11. Incorporation may be granted without limitation of time, or for any limited term of years not less than ten. R.S.O. 1950, c. 214, s. 11.

Term to be
specified if
limited

12.—(1) Where incorporation is granted for a limited term of years, the letters patent shall specify the first and the last day of the term.

Renewal of
terminating
charter

(2) Where incorporation has been granted for a limited term, application may, upon the like notice as is required by section 3, be made on or before the expiry of the term for the renewal or extension of the incorporation, and the incorporation may be renewed or extended by letters patent either without limitation of time or for a limited term. R.S.O. 1950, c. 214, s. 12.

Forfeiture of
charter for
non-user

13.—(1) If a corporation does not go into actual *bona fide* operation within two years after incorporation, or at any time for two consecutive years does not use its corporate powers for the purposes set forth in the Act or instrument of incorporation, such non-user *ipso facto* works a forfeiture of the corporate powers, except so far as is necessary for winding up the corporation.

Onus of
proof of
user

(2) In any action or proceeding where such non-user is alleged, proof of user lies upon the corporation.

Rights of
creditors not
affected

(3) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture.

Charter
may be
revived

(4) The Lieutenant Governor in Council may upon application revive any charter so forfeited, upon compliance with such conditions and upon payment of such fees as the Lieutenant Governor in Council designates. R.S.O. 1950, c. 214, s. 13.

14.—(1) The directors of any loaning land corporation may pass a by-law to delete from its letters patent the power to lend money on the security of real estate and the power to receive deposits. Loaning land corporations, power to withdraw from Act

(2) No such by-law has any effect until it has been ratified by a vote of shareholders present or represented by proxy at a general meeting of the corporation duly called for considering the by-law and holding not less than two-thirds of the issued capital stock of the corporation represented at the meeting, and until it has been confirmed by the Lieutenant Governor in Council. Ratification and confirmation

(3) At any time not more than six months after the ratification of the by-law, the directors may petition the Lieutenant Governor in Council for confirmation of the by-law. Petition for confirmation

(4) The Lieutenant Governor in Council may grant such confirmation if he is satisfied of the *bona fide* character of the changes provided for in the by-law and that the confirmation of the by-law is in the public interest. Conditions precedent to confirmation

(5) The confirmation by the Lieutenant Governor in Council may be evidenced by a certificate of the Minister or by a certified copy of the Minister's certificate, and such certificate or certified copy is conclusive evidence of all matters therein certified and of the due performance of all matters precedent to the granting thereof. Evidence of confirmation

(6) Upon the confirmation of the by-law, the corporation ceases to be a corporation within the meaning of this Act, and the Registrar shall forthwith transfer all papers in his department connected with the corporation to the Provincial Secretary. R.S.O. 1950, c. 214, s. 14. Effect of confirmation

15. Unless preference shares, debentures or bonds are issued subject to redemption or conversion, they are not subject to redemption or conversion without the consent of the holders thereof. R.S.O. 1950, c. 214, s. 15. Consent of holders to redemption

16. Where incorporation is granted, the provisional directors named in the declaration of the applicants are the first directors of the corporation, and shall continue in office until their successors are duly elected. R.S.O. 1950, c. 214, s. 16. First directors of the corporation

17.—(1) Letters patent of incorporation of a trust company may issue where it is shown to the satisfaction of the Lieutenant Governor in Council that, in the locality in which the head office of the proposed company is to be situate, there exists a public necessity for a trust company or for an additional trust company. When letters patent of trust company may issue

Satisfying
Lieutenant
Governor of
fitness of
applicants

(2) Such letter patent shall not issue unless the Lieutenant Governor in Council is satisfied that the fitness of the applicants to discharge the duties of a trust company is such as to command the confidence of the public and that the public convenience and advantage will be promoted by granting to the company the powers applied for. R.S.O. 1950, c. 214, s. 17.

Transfer of
papers

18. After the issue of letters patent to a corporation required or authorized to register under this Act, the Provincial Secretary shall transfer all papers in his Department connected with the corporation to the office of the Registrar. R.S.O. 1950, c. 214, s. 18.

STATUTORY MEETINGS

Statutory
meetings

19.—(1) Every corporation shall, within a period of not less than one month and not more than three months from the date at which the corporation is entitled to commence business, hold a general meeting of its shareholders called "the statutory meeting".

Report to
be sent to
share-
holders

(2) The directors shall, at least ten days before the day on which the meeting is to be held, forward to every shareholder of the corporation a report certified by not fewer than two directors of the corporation showing.

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the corporation in respect of such shares, distinguished as aforesaid;
- (c) an abstract of the receipts and payments of the corporation on capital account to the date of the report, and an account or estimate of the preliminary expenses of the corporation;
- (d) the names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the corporation; and
- (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(3) The report, so far as it relates to the shares allotted by the corporation, and to the cash received in respect of such shares, and to the receipts and payments of the corporation on capital account, shall be certified as correct by the auditors, if any, of the corporation.

Report to be
certified by
auditors

(4) The directors shall cause a copy of the certified report to be filed with the Registrar forthwith after sending it to the shareholders.

Report to be
filed with
Registrar

(5) The directors shall cause a list showing the names and addresses of the shareholders, and the number of shares held by each of them, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder of the corporation during the continuance of the meeting.

List of
share-
holders to be
produced at
meeting

(6) The shareholders present at the meeting are at liberty to discuss any matter relating to the formation of the corporation, or arising out of the report, whether previous notice has been given or not, but no resolution of which notice has not been duly given shall be passed.

Share-
holders may
discuss
business of
company at
meeting

(7) The meeting may adjourn from time to time, and at any such adjourned meeting any resolution of which notice has been duly given, either before or after the former meeting, may be passed, and an adjourned meeting has the same powers as the original meeting.

Adjourn-
ments

(8) If default is made in filing the report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the Supreme Court for the winding up of the corporation, and the court may either direct that the corporation be wound up or give directions for the report being filed or a meeting being held, or make such other order as is just, and may order that the costs of the petition be paid by the persons who, in the opinion of the court, are responsible for the default. R.S.O. 1950, c. 214, s. 19.

Application
to court
if default
made

GENERAL MEETINGS OF SHAREHOLDERS

20.—(1) A general meeting of the shareholders shall be held at least once in each year for the purpose of considering the financial statement of the corporation, and the election of directors and auditors, and the transaction of such other business as is proper at such general meeting under the law of Ontario and the by-laws of the corporation. R.S.O. 1950, c. 214, s. 20 (1).

Annual
meeting

(2) Notice of the time and place of the holding of the annual general meeting of the shareholders shall be delivered or sent by mail to the address of each shareholder so far as it

Notice of
annual
meeting

is known, or, on request, to his proxy presiding in North America or the United Kingdom, and such notice shall be so delivered or sent at least ten days before the time fixed for holding the meeting. 1960, c. 61, s. 2.

Special
general
meetings

21.—(1) The directors have the right at any time by resolution of the board passed in that behalf to call a special general meeting of the shareholders for the transaction of any business specified in the resolution.

On requisition of
shareholders

(2) One-fourth part in value of the shareholders of the corporation, by requisition delivered to the manager, acting manager, or secretary thereof, have at all times the right to have a special general meeting called by such officer for the transaction of any business specified in the requisition.

Notice

(3) Notice of the holding of a special general meeting of the shareholders, specifying the time and place of the meeting and the business to be transacted thereat, shall be delivered or sent by registered mail to the address of each shareholder, so far as the same is known, at least ten days before the day appointed for the meeting.

Other
business

(4) No other business shall be transacted at a special general meeting unless all the shareholders are present in person or by proxy and unanimously consent thereto.

Proof of
notice

(5) Before the business of any special general meeting is proceeded with, there shall be produced and read a statutory declaration of the manager, acting manager or secretary of the corporation that the requirements of this section as to notice have been fully complied with.

Minutes

(6) A copy of the notice so delivered or sent, and of the declaration in relation thereto, shall be entered in the minute book of the corporation as part of the proceedings of the meeting. R.S.O. 1950, c. 214, s. 21.

Offence

22. Every director or officer wilfully neglecting or omitting to give effect to the requisition mentioned in section 21, or to give the notice of any general meeting required by section 20 or 21, is guilty of an offence. R.S.O. 1950, c. 214, s. 22.

Voting
power of
share-
holders

23. At all meetings of shareholders of the corporation, a shareholder has one vote for each share held by him upon which he is not six months in arrear. R.S.O. 1950, c. 214, s. 23.

Proxies

24. A shareholder may either vote in person or be represented and vote by a proxy who is a shareholder of the corporation and not six months in arrear. R.S.O. 1950, c. 214, s. 24.

25. The transactions of all annual and special general meetings of the corporation and of all meetings of the board of directors shall be entered in a book known as the "Minute Book" of the corporation. R.S.O. 1950, c. 214, s. 25. Minute book

BY-LAWS

26. A meeting of the shareholders, called with due notice thereof, may make such lawful and proper by-laws for the government of the corporation, not repugnant to this Act or any other law in force in Ontario, as the majority of the shareholders present in person or by proxy deem proper. R.S.O. 1950, c. 214, s. 26. Shareholders may make by-laws

27. Every by-law shall be reduced to writing and shall have affixed thereto the seal of the corporation, and is receivable in evidence without proof of the seal or of the signature or of the official character of the person or persons appearing to have signed it, and without further proof thereof. R.S.O. 1950, c. 214, s. 27. To be sealed

28.—(1) The by-laws shall be forthwith recorded in a book to be kept by the corporation known as the "By-law Book". By-laws to be recorded

(2) The by-law book shall, without the payment of any fee or charge, be open during business hours for inspection by any shareholder, depositor, debenture holder or holder of a guaranteed investment certificate, by himself or his agent, and any such person may make extracts therefrom. R.S.O. 1950, c. 214, s. 28. Right to inspect by-law book

29. Every corporation shall deliver to the Registrar within one month after the passing thereof a certified copy of its by-laws and of every repeal, or addition to, or amendment or consolidation thereof. R.S.O. 1950, c. 214, s. 29. Copy of by-laws etc., to be filed with Registrar

30.—(1) The shareholders in meeting may by by-law, of which, as proposed, notice shall be given to each shareholder with the notice of the meeting, empower the directors to make, amend and repeal by-laws for the corporation. Delegating to directors power to make or amend by-laws

(2) Every such by-law of the directors and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the corporation duly called for that purpose, has force only until the next annual meeting of the corporation, and in default of confirmation thereat, at and from that time, cease to have force, and in that case no new by-law to the same or the like effect or re-enactment thereof has any force until confirmed at a general meeting. Confirmation necessary

By-laws
may be
varied

(3) The corporation may at a general meeting duly called for the purpose or at an annual meeting repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law is prejudicially affected by any such repeal, amendment, variation, or other dealing. R.S.O. 1950, c. 214, s. 30.

Alteration
at general
meeting

31. The shareholders at a general meeting may alter or amend such by-laws and may confirm them as so altered and amended. R.S.O. 1950, c. 214, s. 31.

By-laws for
particular
purposes

32. The directors of a corporation, authorized as provided by section 30, may make by-laws, not repugnant to this Act or any other law in force in Ontario, to regulate,

- (a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue and registration of certificates of shares, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, the transfer of shares, and, subject to section 58, the subdivision of existing shares into shares of smaller amount;
- (b) the declaration and payment of dividends;
- (c) subject to section 66, the appointment, functions, duties and removal of agents, officers and servants of the corporation, and their remuneration;
- (d) the calling of meetings of the directors and the procedure at such meetings; and
- (e) the conduct in all other particulars of the affairs of the corporation. R.S.O. 1950, c. 214, s. 32.

DIRECTORS

Term of
office

33.—(1) The term of office of the directors of a corporation shall not exceed two years.

Number

(2) Where the term of office is one year only, the number of directors shall not be less than five.

Idem

(3) Where the term of office is two years, the number of directors shall be an even number not less than six, and one-half of the directors shall retire annually at the general meeting in rotation, but, if otherwise qualified, are eligible for re-election.

Retirement
by lot

(4) Where the term of office is two years, the first elected directors shall at their first meeting determine by lot which of them shall retire at the end of the first year. R.S.O. 1950, c. 214, s. 33.

34.—(1) The election of directors shall be by ballot.

Ballot

(2) No person is qualified to be a director unless he is of the full age of twenty-one years and is a shareholder holding, in his own right, shares of the corporation, on which at least \$1,000 has been paid in, and is not in arrear in respect of any call thereon.

Qualification
of directors

(3) The majority of the directors shall at all times be resident in Canada and subjects of Her Majesty by birth or naturalization.

Majority to
be residents
and British
subjects

(4) Where more than the prescribed number of non-residents and aliens are elected, a new election shall be held forthwith to fill all the directorships to which aliens or non-residents have been elected, and so on until the number of non-residents or aliens is reduced to the prescribed number.

New election
to fill
directorships
in such case

(5) The remuneration of directors shall be fixed by the shareholders in general meeting. R.S.O. 1950, c. 214, s. 34.

Remunera-
tion

35. If at any time an election of directors is not held or does not take effect at the proper time, the corporation is not thereby dissolved, but the election may take place at any general meeting of the corporation duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. R.S.O. 1950, c. 214, s. 35.

Provision
in case of
failure of
election

36. Vacancies occurring in the board of directors may be filled for the unexpired remainder of the term by the board from among the qualified shareholders of the corporation. R.S.O. 1950, c. 214, s. 36.

Interim
vacancies

37. The directors may lawfully exercise all the powers of the corporation except as to such matters as are directed by law or by the by-laws of the corporation to be transacted at a general meeting and have not been delegated to the directors by a general meeting as provided by section 30. R.S.O. 1950, c. 214, s. 37.

Powers of
directors

38.—(1) The directors shall from time to time elect from among themselves a president and one or more vice-presidents, and the directors shall in all things delegated to them act for and in the name of the corporation, and, subject to subsection 2, the concurrence of a majority of the directors present at any meeting is at all times necessary to any act of the board.

President
and vice-
president

(2) Each director has one vote on any question before the board and, in the event of an equality of votes, the president or presiding officer has a second or casting vote. R.S.O. 1950, c. 214, s. 38.

Casting
vote

Executive
committee

39.—(1) The shareholders of a corporation that has more than six directors may, at a general meeting called for the purpose, by resolution of two-thirds of the shareholders present in person or by proxy, authorize the directors to delegate any of their powers to an executive committee consisting of not less than three to be elected by the directors from their number.

Committee's
powers

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that are imposed upon them by such resolution or by the directors.

Delegated
powers to
be recorded
in minute
book

(3) Where directors delegate any of their powers to an executive committee, the powers so delegated shall be stated in writing and entered in the minute book of the corporation. R.S.O. 1950, c. 214, s. 39.

General
powers of
directors

40. Subject to this Act and to the Act or instrument constituting the corporation and to the by-laws of the corporation, the directors may,

- (a) use or cause to be used and affixed the seal of the corporation, and may affix or cause it to be affixed to any document or paper that in their judgment requires it;
- (b) make and enforce calls upon the shares of the respective shareholders;
- (c) declare the forfeiture of all shares on which calls are not paid;
- (d) make any payments and advances of money they deem expedient that are authorized to be made by or on behalf of the corporation, and enter into all contracts for the execution of the purposes of the corporation, and for all other matters necessary to the transaction of its affairs;
- (e) generally deal with, sell, exchange, lease and dispose of the lands, property and effects of the corporation in such manner as they deem expedient and conducive to the benefit of the corporation;
- (f) do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities conferred by the Legislature. R.S.O. 1950, c. 214, s. 40.

Where direc-
tors have
reasonable
doubts as to
legality of
claim

41.—(1) Where the directors entertain reasonable doubts as to the legality of any claim to or upon any share, bond, debenture or obligation of the corporation, or to or upon any dividend, coupon or the proceeds thereof, they may apply to the Supreme Court, stating such doubt, for an order or judg-

ment adjudicating upon such claim, and awarding such share, bond, debenture, obligation, dividend, coupon or proceeds to the person legally entitled to the same, and the court may restrain any action or proceeding against the corporation, or the directors or officers thereof, for the same subject-matter, pending the determination of the application.

(2) If the order or judgment of the court is obeyed, the corporation and the directors and officers are fully protected and indemnified against all actions, claims and demands in respect of the matters in question in such application and the proceedings thereupon. R.S.O. 1950, c. 214, s. 41.

Order of
court to be
indemnity
to company

42. The secretary or treasurer or secretary-treasurer or other officer of the corporation may be styled "Manager", and, when the officer is also a director, he may be styled "Managing Director". R.S.O. 1950, c. 214, s. 42.

Manager
and
managing
director

43. Every officer or other person appointed to any office in anywise concerning the receipt, safe-keeping or proper application of money shall furnish security according to the by-laws of the corporation and to the satisfaction of the directors for the just and faithful execution of the duties of his office, and any person entrusted with the performance of any other service may be required by the directors to furnish similar security. R.S.O. 1950, c. 214, s. 43.

Certain
persons in
service of
corporation
to furnish
security

44. The directors shall not declare or pay any dividend or bonus when the corporation is insolvent, or that renders the corporation insolvent or diminishes its capital; and if any director, present when any such dividend or bonus is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware thereof, and is able to do so, enters his written protest against the same, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. R.S.O. 1950, c. 214, s. 44.

Liability of
directors
declaring a
dividend
when
corporation
is insolvent
etc.

45.—(1) The directors of any corporation are jointly and severally liable to its labourers, servants and apprentices for all debts not exceeding one year's wages due for services performed for the corporation while they are such directors.

Liability o.
directors
for wages

(2) A director is not liable under subsection 1 unless,

Where no
liability

(a) the corporation has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or

(b) the corporation has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved,

and unless he is sued for such debt while a director or within one year after he has ceased to be a director.

Liability for amount unsatisfied on execution

(3) If execution has so issued, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

On payment director entitled to assignment of judgment, etc.

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings, a director, upon payment of the debt, is entitled to any preference that the creditor paid would have been entitled to, and, where a judgment has been recovered, he is entitled to an assignment of the judgment. R.S.O. 1950, c. 214, s. 45.

SHARES, CALLS ON CAPITAL STOCK

Calling in instalments

46.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held at such times and places and in such payments or instalments as the special Act, letters patent, supplementary letters patent, or this Act, or the by-laws of the corporation require or allow, and interest accrues upon the amount of any unpaid call from the day appointed for payment thereof.

Demand to state liability to forfeiture

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited.

Forfeiture of shares

(3) If after the demand any call is not paid in accordance therewith, the directors, by resolution duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and they thereupon become the property of the corporation and may be disposed of as, by by-law or otherwise, the corporation determines, but such forfeiture does not relieve the shareholder of any liability to the corporation or to any creditor. R.S.O. 1950, c. 214, s. 46.

Liability of shareholders

47. Every shareholder, until the whole amount of his shares has been paid up, is individually liable to the creditors of the corporation to an amount equal to that not paid up thereon, but is not liable to an action therefor by any creditor before an execution against the corporation has been returned unsatisfied in whole or in part, and the amount due on the execution, but not beyond the amount so unpaid on such shares, is the amount recoverable, with costs, against the shareholder. R.S.O. 1950, c. 214, s. 47.

48. In any action under section 47, a shareholder may plead by way of defence, in whole or in part, any set-off that he could set up against the corporation, except a claim for unpaid dividend, or a salary or allowance as a president or a director of the corporation. R.S.O. 1950, c. 214, s. 48. Set-off

49. The par value of a share of capital stock shall be any multiple of \$5, but shall not be less than \$10 and not more than \$100. R.S.O. 1950, c. 214, s. 49. Par value of shares

50.—(1) No person holding shares in the corporation as executor, administrator, guardian, committee of a mentally incompetent person, or trustee of or for any estate, trust or person named in the books of the corporation as being so represented by him, is personally subject to any liability as a shareholder, but the estate and funds in his hands are liable in like manner and to the same extent as the testator, intestate, ward or person interested in such trust fund would be if living and competent to hold the shares in his own name. Representatives, guardians or trustees not to be personally liable

(2) If the trust is for a living person, not under disability, such person also is liable as a shareholder. Liability of beneficiary

(3) If such testator, intestate, ward, mentally incompetent person or person so represented is not named in the books of the corporation, the executor, administrator, guardian, committee or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. R.S.O. 1950, c. 214, s. 50. Where beneficiary etc., not named, trustee, etc. liable

51.—(1) Except with the consent of the directors, no payment on account of capital stock shall be made in advance of calls thereon. Payments on shares in advance of calls

(2) In respect of any sum so paid, a shareholder is entitled to participate in any dividend declared, but it shall not bear interest and does not constitute a loan to or a debt of the corporation. Right to participate in dividends

(3) The shareholder is entitled to have any such advance payment credited to him *pro tanto* as against subsequent calls. R.S.O. 1950, c. 214, s. 51. To be credited as against subsequent calls

52. Subject to section 53, no by-law shall be passed that in any way restricts the right of a holder of paid up shares to transfer them, but nothing in this section prevents the regulation of the mode of their transfer. R.S.O. 1950, c. 214, s. 52. Restrictions on transfer

53.—(1) No transfer of shares, the whole amount whereof has not been paid, shall be made without the consent of the directors. When directors' consent required

Directors' liability

(2) Where any such transfer is made with the consent of the directors to a person who is not apparently of sufficient means to fully pay up such shares, the directors are, subject to subsection 3, jointly and severally liable to the creditors of the corporation in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been.

Relief from liability by entering protest

(3) If any director present when such a transfer is allowed forthwith, or, if any director then absent, within twenty-four hours after he becomes aware of such transfer and is able to do so, enters his written protest against the transfer, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability.

Liability where call remains unpaid

(4) Where a share upon which a call is unpaid is transferred with the consent of the directors, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share if the call remains unpaid as if he had been the holder when the call was made, and the transferor remains liable also for the call until it has been paid.

Where transferor indebted

(5) Where the letters patent, supplementary letters patent or by-laws of a corporation confer the power on the directors they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. R.S.O. 1950, c. 214, s. 53.

Lost certificate

54. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding 25 cents, and on such terms, if any, as to evidence and indemnity as the directors think fit. R.S.O. 1950, c. 214, s. 54.

Transfer valid only after entry

55. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, is, until entry thereof has been duly made, valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the corporation and its creditors until entry thereof has been duly made in the books of the corporation. R.S.O. 1950, c. 214, s. 55.

Transferor may be notified

56.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

(2) The owner may lodge a caveat against the entry of the transfer and thereupon the transfer shall not be made for a period of forty-eight hours.

Owner may lodge caveat

(3) If no order of a competent court enjoining the entry of the transfer is served upon the corporation within one week from the giving of the notice or the expiration of the period of forty-eight hours, whichever last expires, the transfer may be entered.

Transfer may be entered if no order served

(4) Where a transfer is entered after the proceedings mentioned in this section, the corporation is, in respect of the shares so transferred, free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim that the transferor may have against the transferee. R.S.O. 1950, c. 214, s. 56.

Corporation not liable if section complied with

57.—(1) Subject to *The Succession Duty Act*, where,

(a) a transmission of shares or other securities of a corporation takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy; and

Deposit of foreign probate, letters of administration, etc. with officer of corporation
R.S.O. 1960, c. 386

(b) the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by a court or authority in Canada, or in the Commonwealth, or in any foreign country,

the probate of the will or the letters of administration or the document testamentary or, in the case of a transmission by notarial will in the Province of Quebec, a copy thereof duly certified in accordance with the laws of Quebec, or the other judicial or official instrument, or an authenticated copy thereof or official extract therefrom under the seal of the court or other authority, without any proof of the authenticity of the seal or other proof whatever, shall be produced, and a true copy thereof, together with a declaration in writing showing the nature of the transmission, signed and executed by such one or more of the persons claiming by virtue thereof as the corporation requires, or, if any such person is a company, signed and executed by an officer thereof, shall be deposited with an officer of the corporation or other person authorized by the directors of the corporation to receive them.

(2) Such production and deposit is sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture, deposit,

Transmission of interest on death

guaranteed investment certificate, obligation or share, or transferring, or consenting to the transfer of any bond, debenture, deposit, guaranteed investment certificate, obligation or share, in pursuance of, and in conformity to such probate, letters of administration or other such document aforesaid, but the payment, transfer or consent to transfer, shall not be made until *The Succession Duty Act* has been complied with. R.S.O. 1950, c. 214, s. 57.

R.S.O. 1960,
c. 386

INCREASE OR DECREASE OF CAPITAL STOCK AND SUBDIVISION OF SHARES

Increase of
permanent
capital stock

58.—(1) The directors of any provincial corporation may, at any time after 90 per cent of its permanent capital stock has been subscribed and 90 per cent thereof paid in, but not sooner, by by-law provide for the increase of its permanent capital stock to an amount that the directors consider requisite.

Decrease of
permanent
capital stock

(2) The directors may at any time by by-law provide for the decrease of the permanent capital stock to an amount, not less than \$100,000, that they consider sufficient.

By-law to
declare
number and
par value of
new shares

(3) The by-law shall declare the number and par value of the shares of the stock so increased or decreased and provide for the manner in which they are to be allotted or the rule or rules by which the allotment is to be made.

Conversion
of partly
paid up
shares

(4) The directors may pass a by-law providing upon terms therein stated for the conversion of partly paid up shares into paid up shares or for subdividing shares or altering the par value of shares of its permanent capital stock.

Rights of
creditors
preserved

(5) The liability of shareholders to persons who, at the time the stock or shares are so increased, decreased, converted or altered, are creditors of the corporation remains as though the stock or shares had not been increased, decreased, converted or altered.

Copy to
Registrar

(6) Where it is proposed to pass a by-law under this section that will have the effect of increasing or decreasing the permanent capital stock of the corporation or altering the liability of any holder of such stock, a copy of the proposed by-law shall be delivered to the Registrar and shall not be passed for at least six weeks thereafter.

Notice of
by-law to
shareholders

(7) Before submission of any such by-law to a meeting of shareholders, as provided in subsection 8, such notice shall be given by publication and otherwise as the Registrar directs.

(8) No by-law for, or having the effect of, increasing or decreasing the permanent capital stock of the corporation, whether such stock is or is not subscribed or issued, or for, or having the effect of, subdividing the shares of the corporation or altering the par value of such shares, or altering the liability of any holder of such shares, or converting partly paid up shares into paid up shares, has any force or validity until it has been duly adopted and ratified by a vote of shareholders present or represented by proxy at a general meeting of the corporation duly called for considering such by-law and holding not less than two-thirds of the issued capital stock of the corporation represented at such meeting, and has afterwards been confirmed by the Lieutenant Governor in Council.

Such by-laws relating to stock to be confirmed by order in council

(9) The Lieutenant Governor in Council may grant such confirmation, if he is satisfied of the *bona fide* character of the changes provided for in the by-law, unless it appears that the confirmation of the by-law would not be in the public interest.

When confirmation may be granted

(10) With the consent of the corporation, evidenced by a resolution of the directors, the changes provided for in any such by-law may be varied or amended by the confirming order in council, and may be made subject to such conditions as the Lieutenant Governor in Council deems proper.

Varying by-law on confirmation

(11) The confirmation by the Lieutenant Governor in Council may be evidenced by a certificate of the Minister or by a certified copy of the Minister's certificate in the like manner and with the like effect as provided in sections 102 and 103.

Evidence of confirmation

(12) Such certificate is conclusive evidence of all matters therein certified or declared and of the due performance of all matters precedent or preliminary to the granting thereof. R.S.O. 1950, c. 214, s. 58.

Certificate to be conclusive

BOOKS

59.—(1) Every corporation having its head office in Ontario shall cause the secretary, or some other officer specially charged with the duty, to keep a book or books wherein shall be kept recorded,

Record books to be kept, and contents thereof

- (a) a copy of the letters patent and of any supplementary letters patent issued to the corporation and, if incorporated by special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;
- (b) the names, post office addresses, so far as known, of all persons who are or have been directors of the corporation, with the date on which each became and ceased to be a director;

- (c) the names, alphabetically arranged, of all persons who are shareholders of the corporation;
- (d) the post office address, so far as known, of every such person while he is a shareholder;
- (e) the number of shares held by each shareholder;
- (f) the amounts paid in, and remaining unpaid, on the shares of each shareholder; and
- (g) the date and other particulars of all transfers of shares in the order in which they were made.

Books to be kept at head office

(2) Such books shall be kept at the head office of the corporation.

Offence

(3) Every director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of \$200.

Relief from operation of section

(4) Upon necessity therefor being shown and adequate assurance given that such books may be inspected in Ontario by any person entitled thereto after application for such inspection to the Registrar, the Lieutenant Governor in Council may relieve any corporation from the provisions of subsection 2 upon such terms as he sees fit.

Books to be open for inspection

(5) Such books shall, without the payment of any fee or charge, be open during business hours for inspection by any shareholder, depositor, debenture holder or holder of a guaranteed investment certificate, by himself, his agent or his personal representative, and any such person may make extracts therefrom.

Forfeiture for neglect

(6) Every such corporation that neglects to keep such book or books is liable to forfeit its registry under this Act, and, if a provincial corporation, is also liable to forfeit its corporate franchise and rights.

False entries

(7) No auditor, director, officer or servant of the corporation shall knowingly make or assist in making any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein.

Liability for damages

(8) Every person contravening this section is liable in damages for all loss or injury that any person interested may have sustained thereby. R.S.O. 1950, c. 214, s. 59.

Register of securities

60. Every corporation shall keep a register or registers of all securities held by the corporation. R.S.O. 1950, c. 214, s. 60.

61.—(1) Every loan corporation in which and so long as there are any holders of terminating shares or stock shall keep a book, or books, to be known as the "Terminating Shares Book", in which shall be entered the name and address of every such shareholder, the number and amount of shares from time to time taken by him, and his several payments thereon, the interest or profits earned by his shares, also the repayments or the advances, if any, made by the corporation on account of his shares. Terminating shares book

(2) In any case of forfeiture of shares an entry shall be made thereof, with the date of the forfeiture. R.S.O. 1950, c. 214, s. 61. Entry of forfeiture

62. Subsections 6 to 8 of section 59 apply to the registers prescribed by section 60 and subsections 5 to 8 of section 59 apply to the books prescribed by section 61. R.S.O. 1950, c. 214, s. 62. Application of s. 59 (6-8)

63.—(1) The books used by an auditor, officer, collector or agent for verifying or recording money received for the corporation are the property of the corporation. Property in books of account

(2) Neither the foregoing persons, nor any solicitor, counsel or other person shall have in or upon these or any other of the books of account or record of the corporation any ownership or proprietary right or any right of lien. Idem

(3) Every person who, in contravention of this section, withdraws, withholds or detains any of such books from the possession or control of the directors, or from the receiver or liquidator of the corporation, is guilty of an offence. R.S.O. 1950, c. 214, s. 63. Offence

64. Where a person who has been but has ceased to be a director, manager, auditor, officer, agent, collector, servant or employee of a corporation, or any other person unlawfully retains possession of any accounts, books, money, securities, papers, matters or things that are the property of the corporation, a judge of the Supreme Court or of a county or district court, on application of the corporation or any depositor or shareholder therein or of the Registrar, and upon notice to the person affected, may order that such accounts, books, money, securities, papers, matters and things be forthwith delivered to such person as the judge directs and in default that the person so retaining possession shall be imprisoned for such period as the judge directs or until he complies with the direction of the order, and may authorize the sheriff of any county or district in which the same may be found forthwith to seize and take such accounts, books, After decease, bankruptcy, etc., of officer, books, etc., to be delivered to corporation

money, securities, papers, matters and things and deliver them to the person to whom they have been directed to be delivered. R.S.O. 1950, c. 214, s. 64.

Books as
evidence

65.—(1) In any action or proceeding against a corporation, the books mentioned in sections 59 and 60 are *prima facie* evidence of the facts purported to be thereby stated.

Idem

(2) The books of a corporation are *prima facie* evidence of the truth of all matters purporting to be therein recorded as between the corporation and its shareholders and as between its shareholders. R.S.O. 1950, c. 214, s. 65.

AUDIT, STATEMENT TO SHAREHOLDERS

Appoint-
ment of first
auditor

66.—(1) The shareholders of a corporation at their first general meeting shall appoint one or more auditors to hold office until the first annual meeting, and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

Appoint-
ment
annually of
auditor

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the next annual meeting, and, if the shareholders fail to do so, the auditor in office shall continue in office until a successor is appointed.

Vacancies

(3) The directors may fill any casual vacancy in the office of auditor, but, while a vacancy continues, the surviving or continuing auditor, if any, may act.

Removal

(4) The shareholders may, by resolution passed by at least two-thirds of the votes cast at a general meeting of which notice of intention to pass the resolution has been given, remove any auditor before the expiration of his term of office, and shall by a majority of votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Remunera-
tion

(5) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders or by the directors, if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appoint-
ment by
Registrar

(6) If for any reason no auditor is appointed, the Registrar may, on the application of a shareholder, appoint one or more auditors for that year and fix the remuneration to be paid by the corporation for his or their services.

Notice of
appoint-
ment

(7) Notice of the appointment of an auditor shall be given in writing to him forthwith after the appointment is made. 1960, c. 61, s. 3, *part*.

67. The auditor of a corporation shall be an accountant ^{Who may be appointed auditor} or a firm of accountants, except that no person shall be appointed as auditor of a corporation who is a director, officer or employee of that corporation or an affiliated corporation or who is a partner or employee of any such director, officer or employee. 1960, c. 61, s. 3, *part.*

68.—(1) The auditor shall make such examination as will ^{Auditor's examination} enable him to report to the shareholders as required under subsection 2.

(2) The auditor shall make a report to the shareholders on ^{Auditor's report} the balance sheet to be laid before the corporation at any annual meeting during his term of office and shall state in his report whether in his opinion the balance sheet referred to therein presents fairly the financial position of the corporation.

(3) The auditor in his report shall make such statements ^{Idem} as he considers necessary,

- (a) if the corporation's balance sheet is not in agreement with its accounting records;
- (b) if the corporation's balance sheet is not in accordance with any requirements prescribed by the Registrar;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(4) The auditor of a corporation has right of access ^{Auditor's right of access} at all times to all records, documents, books, accounts and vouchers of the corporation, and is entitled to require from the directors and officers of the corporation such information and explanations as in his opinion are necessary to enable him to report as required by subsection 2.

(5) The auditor of a corporation is entitled to attend ^{Auditor's right to attend meetings} any meeting of shareholders of the corporation, to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business that concerns him as auditor. 1960, c. 61, s. 3, *part.*

69.—(1) The directors shall lay before each annual meeting ^{Annual financial statement} of shareholders,

- (a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting, or com-

mencing immediately after the period covered by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of,

(i) a statement of undivided profits for such period, and

(ii) a balance sheet made up to the end of such period;

(b) the report of the auditor to the shareholders; and

(c) such further information respecting the financial position of the corporation as its letters patent, supplementary letters patent or by-laws require.

Form

(2) The Registrar may prescribe the form of the financial statement.

Auditor's
report to
be read

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder.

Attesting

(4) Every financial statement shall be attested by the signature of the president or vice-president and the managing director or some other principal officer of the corporation.

Copy to
shareholders

(5) A copy of the financial statement shall be mailed or delivered without charge to every shareholder of the corporation at least ten days before the annual meeting.

Copy to
debenture
holders, etc.

(6) A copy of the financial statement shall be mailed or delivered without charge to any holder of a debenture or guaranteed investment certificate of the corporation or to any depositor of the corporation who requests the same. 1960, c. 61, s. 4.

BORROWING POWERS OF LOAN AND LOANING LAND CORPORATIONS

Application
of ss. 71-76

70. Sections 71 to 76 apply to every loan corporation and loaning land corporation incorporated under the law of Ontario or having its head office in Ontario, and also to every loan corporation borrowing in Ontario by taking deposits or issuing debentures or like obligations, and to every loaning land corporation so borrowing by issuing debentures or like obligations. R.S.O. 1950, c. 214, s. 68.

Amount of
capital to be
subscribed
and paid
before
borrowing

71.—(1) No corporation constituted with joint stock capital, until it has a subscribed permanent stock of at least \$300,000 on which at least \$100,000 has been actually paid in and is unimpaired, and no corporation constituted without joint stock capital, until it has a paid up, unimpaired, per-

manent and non-withdrawable capital of at least \$100,000, shall exercise any of the borrowing powers conferred by this Act.

(2) Where a corporation constituted with joint stock capital has subscribed permanent stock of at least \$300,000 on which at least \$100,000 has been actually paid in and is unimpaired, or where a corporation constituted without joint stock capital has a paid up, unimpaired, permanent and non-withdrawable capital of at least \$100,000, subject to the limitations and restrictions contained in this Act, the directors, pursuant to powers conferred in that behalf by any by-laws or rules of the corporation passed at a general meeting called with due notice of such proposed by-laws and rules, may borrow money on behalf of the corporation at such rates of interest, and upon such terms as they from time to time think proper, and may for that purpose, subject as hereinafter provided, receive money on loan or on deposit, other than and in addition to money received in respect of shares of the corporation, and issue terminable debentures, bonds and other obligations, as well as execute mortgages under the seal of the corporation, for sums of not less than \$100 each, or may assign, transfer or deposit by way of equitable mortgage or otherwise, for the sum so borrowed, any of the documents of title, deed, muniments, securities or property of the corporation, and either with or without power of sale or other special provisions, as they deem expedient. R.S.O. 1950, c. 214, s. 69.

72.—(1) A corporation shall not, without the express consent of the shareholders given at a general meeting called with due notice of the proposal, receive money on deposit, otherwise than in respect of shares of the corporation, and when money is otherwise received on deposit it shall, for the purposes of this Act, be deemed to be money borrowed by the corporation, and with interest thereon as agreed is repayable by the corporation either at a time certain, or upon notice, not being less than thirty days, unless notice, or such notice, is waived.

(2) A loaning land corporation is not entitled to receive deposits.

(3) In respect of deposits, creditors rank upon the assets of the corporation *pari passu* with the holders of debentures.

R.S.O. 1950, c. 214, s. 70 (1-3).

(4) The amount to be received by any corporation entitled to receive deposits shall not at any time exceed an amount equal to the aggregate of the amount of its cash on hand or deposited in chartered banks in Canada and of twice the combined amounts of its then unimpaired paid-in capital and re-

serve, but, subject to the limitation set out in subsection 2 of section 75, the Lieutenant Governor in Council may, upon such terms and conditions as are prescribed, increase the amount of deposits that may be received by any such corporation. 1959, c. 54, s. 2.

Dividends
etc., not to
be paid out
of reserve

(5) No dividend or bonus shall be paid or declared either wholly or in part out of the reserve fund that has the effect of diminishing such aggregate below the amount required by this Act for the borrowings of the corporation. R.S.O. 1950, c. 214, s. 70 (5).

Confirming
by-law

73. No by-law for any of the purposes mentioned in sections 71 and 72 takes effect until it has been confirmed by a vote of shareholders present or represented by proxy at a general meeting of the corporation duly called for considering it and holding not less than two-thirds of the issued capital stock of the corporation represented at such meeting. R.S.O. 1950, c. 214, s. 71.

Reserves
required on
deposits

74. Every loan corporation shall at all times maintain cash on hand and on deposit, debentures, bonds, stock or other securities of a kind referred to in section 151, and loans payable on demand and fully secured by such securities, to an aggregate amount of at least 20 per cent of the amount of money deposited with the corporation. R.S.O. 1950, c. 214, s. 72.

Denomina-
tion and
term of
debentures

75.—(1) Debentures shall be for such sums, not less than \$100, and in such currency as the directors deem advisable, and shall be payable not less than one year from the issue thereof, at such place as may be therein mentioned. R.S.O. 1950, c. 214, s. 73 (1).

Limit of
borrowing

(2) The total amount borrowed by a corporation on debentures and other securities and by way of deposits shall not exceed an amount equal to the aggregate of its cash on hand or deposited in chartered banks in Canada and of four times the combined amounts of its then unimpaired paid-in capital and reserve, but the Lieutenant Governor in Council may on the report of the Registrar and upon such terms and conditions as are prescribed, increase the amount that may be borrowed to a sum not exceeding an amount equal to the aggregate of such cash and of twelve and one-half times the combined amounts of such capital and reserve. 1959, c. 54, s. 3.

Deduction
to be made
in estimat-
ing the paid
in capital

76. In ascertaining the extent of the borrowing powers of a corporation, all loans or advances to its shareholders upon the security of their shares shall be deducted from the amount of the paid in capital. R.S.O. 1950, c. 214, s. 74.

POWERS OF TRUST COMPANIES

77. Subject to sections 80, 81 and 82, a provincial trust company may and any other registered trust company that has capacity to do so may, Powers conferred on trust companies

- (a) take, receive and hold all estates and real and personal property that may be granted, committed, transferred or conveyed to the company with its consent, upon any trust or trusts whatsoever not contrary to law, at any time or times, by any person or persons, body or bodies corporate, or by any court of competent jurisdiction;
- (b) take and receive as trustee or as bailee, upon such terms and for such remuneration as are agreed upon, deeds, wills, policies of insurance, bonds, debentures or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind, and to guarantee the safe keeping of the same;
- (c) receive and store for safe keeping all kinds of securities and personal property and rent spaces or compartments for the storage of securities or personal property and enter into legal contracts for regulating the terms and conditions upon which such business is to be carried on;
- (d) act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons and other securities for money;
- (e) act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any association or municipal or other corporation, and to receive, invest and manage any sinking fund therefor on such terms as are agreed upon;
- (f) accept and execute the offices of executor, administrator, trustee, receiver, liquidator, assignee, custodian, trustee in bankruptcy, or of trustee for the benefit of creditors, and of guardian of any minor's estate, or committee of any mentally incompetent person's estate, and to accept the duty of and act generally in the winding up of estates, partnerships, companies and corporations;
- (g) invest any trust money in the hands of the company in any securities in which private trustees may by law invest trust money;

- (h) guarantee any investment made by the company as trustee, agent or otherwise;
- (i) sell, pledge or mortgage any mortgage or other security, or any other real or personal property held by the company, and make and execute all requisite conveyances and assurances in respect thereof;
- (j) make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and contracts necessary to carry out the purposes of the company, and promote its objects and business;
- (k) charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses for all such services, duties and trusts. R.S.O. 1950, c. 214, s. 75.

Interpre-
tation

78.—(1) In this section, “common trust fund” means a fund maintained by a trust company in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment.

Common
trust funds
authorized

(2) Notwithstanding this or any other Act, any provincial trust company and any other registered trust company that has capacity to do so may, unless the trust instrument otherwise directs, invest trust money in one or more common trust funds of the company, and, where trust money is held by the company as a co-trustee, the investment thereof in a common trust fund may be made by the company with the consent of its co-trustees whether the co-trustees are individuals or corporations.

Regulations

(3) The Lieutenant Governor in Council may make regulations with respect to the establishment and operation of common trust funds and the investment of trust money in such funds. R.S.O. 1950, c. 214, s. 76.

Common
trust fund,
passing of
accounts

(4) Not more than three years after the date on which a common trust fund is established, and triennially thereafter, the trust company maintaining such fund shall file and pass an account of its dealings with respect thereto in the office of the surrogate court of the county or district in which the fund is being administered, and the judge of the surrogate court, on the passing of such account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

Period for
which
accounts
passed

(5) A trust company may at any time file and pass in the office of the surrogate court as aforesaid an account of its dealings with a common trust fund for any period of less than

three years, but no subsequent accounting shall be for a period of more than three years.

(6) Notwithstanding any other Act or law, a trust company shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Accounting only necessary under this section or regulations

(7) Upon the filing of an account pursuant to this section, the judge of the surrogate court shall fix a time and place for the passing of the account, and the trust company shall cause a written notice of such appointment and a copy of the account to be served upon the Registrar at least fourteen days before the date fixed for the passing, and the trust company shall not be required to give any other notice of the appointment.

Time and place for passing of account

(8) For the purposes of any such accounting an account may be filed in the form of audited accounts filed with the Registrar pursuant to regulations made under this section.

Form of account

(9) Upon the passing of an account pursuant to this section, the Registrar shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right at his own expense to appear personally or to be separately represented.

Registrar to represent persons having interest in fund

(10) Where an account filed pursuant to this section has been approved by the judge of the surrogate court, such approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust company's administration of the common trust fund for the period covered by the account.

Approval of judge

(11) The costs of passing an account pursuant to this section shall be charged to principal and income of the common trust fund in such proportions as the judge of the surrogate court deems proper. 1952, c. 52, s. 1.

Costs

79. A provincial trust company does not have power to take deposits by way of borrowing money. R.S.O. 1950, c. 214, s. 77.

Trust companies not to borrow by accepting deposits

80.—(1) Subject to section 139, a provincial trust company and any other registered trust company that has capacity to do so may receive deposits of money repayable upon demand or after notice and may pay interest thereon at such rates and on such terms as the company from time to time establishes, and the company is entitled to retain the interest and profit resulting from the investment or loaning of such deposit money in excess of the amount of interest payable to depositors.

Deposits, power to receive

to be
deemed
trust
moneys
and to be
guaranteed

(2) Every trust company receiving deposits in the manner authorized by subsection 1 shall be deemed to hold the deposits as trustee for the depositors and to guarantee repayment thereof, and there shall be ear-marked and definitely set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection "cash" includes moneys on deposit and "securities" includes loans made upon securities.

record

(3) Every trust company receiving moneys on deposit under this section shall keep a record in the form approved by the Registrar, in which shall be entered all sums so received and the names and addresses, so far as known, of the persons from whom they are received. R.S.O. 1950, c. 214, s. 78.

Debentures

81. A provincial trust company does not have power to borrow money by issuing debentures. R.S.O. 1950, c. 214, s. 79.

Money for
investment

82.—(1) Subject to section 139, a provincial trust company and any other registered trust company that has capacity to do so may receive money for the purpose of its being invested by the company and may guarantee the repayment of money so received and the payment of the interest thereon at such rate as is agreed upon on fixed days.

Guarantee

(2) Such guarantee by the company shall not be deemed to be a debenture and the money shall not be deemed to be money borrowed by the company by issuing debentures but to be money received in trust, and in such cases the company is entitled to retain the interest and profits resulting from the investment or loaning of such moneys in excess of the amount of interest payable thereon.

Securities
allocated to
guaranteed
investment

(3) Where it is provided by the agreement under which moneys are received by the company for guaranteed investment as mentioned in subsection 1 that specific securities shall be allocated in respect thereof, such securities shall be ear-marked and definitely set aside in respect thereof, and in respect of all other moneys received for guaranteed investment as mentioned in subsection 1 there shall be ear-marked and definitely set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection "cash" includes moneys on deposit and "securities" includes loans made upon securities. R.S.O. 1950, c. 214, s. 80.

Extent of
liability

83.—(1) The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, liquidator, assignee, guardian or

committee is the same as if the estate had been held by a private person in the like capacity, and the company's powers are the same.

(2) Where a trust company is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the company being accepted as a trust company for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the company, appoint the company to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the company probate of any will in which the company is named as an executor; but no company that has issued or has authority to issue debentures or debenture stock, or that has received or has authority to receive deposits, except in the manner authorized by this Act, shall be approved.

Approval of company as executor, etc.

(3) A trust company so approved may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee.

Appointment of company as sole

(4) A trust company so approved may be appointed to any of the offices mentioned in subsection 2 jointly with another person.

or joint trustee

(5) Such appointment may be made whether the trustee is required under a deed, will or document creating a trust or whether the appointment is under *The Trustee Act* or otherwise.

When appointment may be made by court
R.S.O. 1960, c. 408

(6) Notwithstanding any rule or practice or any provision of any Act requiring security, it is not necessary for the company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless otherwise ordered.

Security not required

(7) The Lieutenant Governor in Council may at any time revoke the approval given under this section. R.S.O. 1950, c. 214, s. 81.

Revocation of approval

84. Every trust company shall at all times maintain cash on hand and on deposit, debentures, bonds, stocks or other securities of a kind referred to in subsection 3 of section 150 and loans payable on demand and fully secured by such securities, to an aggregate amount of at least 20 per cent of the amount of money deposited with the company in the manner authorized by subsection 1 of section 80. R.S.O. 1950, c. 214, s. 82.

Reserves required on deposits

GENERAL POWERS

Powers of corporation as to benefit funds, etc., for employees and their families

85.—(1) Every corporation may establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the corporation, or its predecessors in business, or the dependants or connections of such persons, and to grant pensions and allowances and make payments towards insurance or for any object similar to those set forth in this subsection, and to subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object.

Declaration as to powers of corporation

(2) Every provincial corporation shall be deemed to have possessed since the date of its incorporation the powers set forth in subsection 1 including the power to exercise such powers jointly with any registered corporation, by whatever authority incorporated, possessing the same or similar powers, in such a way as to benefit the employees, or ex-employees, of such corporations or predecessors in business of such corporations or the dependants or connections of such persons. R.S.O. 1950, c. 214, s. 83.

Suspension or revocation of charter

86. The charter or other instrument of incorporation of a corporation may at any time, for cause shown to his satisfaction, be suspended or revoked by the Lieutenant Governor in Council. R.S.O. 1950, c. 214, s. 84.

Capacity of corporations

87. Every provincial corporation, unless it is otherwise expressly declared in the Act or instrument creating it, has and shall be deemed from its creation to have had the general capacity that the common law ordinarily attaches to corporations created by charter. R.S.O. 1950, c. 214, s. 85.

Extension of business beyond Ontario

88. Every provincial corporation, unless it is otherwise expressly provided in the Act or instrument creating it, may exercise its powers beyond Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. 1959, c. 54, s. 4.

Reserve fund

89. A corporation may maintain a reserve fund out of its earnings or other income not required to meet its present liabilities. R.S.O. 1950, c. 214, s. 87.

Prohibition or limitation of loans upon shares

90.—(1) A corporation may pass a by-law prohibiting the loaning to shareholders upon the security of their shares, or, subject to the limitations contained in this section, may pass a by-law fixing the aggregate amount that may be loaned

on such shares, and neither of such by-laws shall be repealed until all liabilities of the corporation are discharged.

(2) Subject to subsection 1, the corporation may lend upon its own paid up stock to an amount not exceeding at any one time in the aggregate of all such loans 10 per cent of the corporation's paid up stock. Limitation as to loans on its own stock

(3) No such loan shall exceed 80 per cent of the market price of the stock. Margin R.S.O. 1950, c. 214, s. 88.

91. A corporation shall not, except in the manner provided by section 90, lend on its own shares with or without collateral security. Not to lend on own stock R.S.O. 1950, c. 214, s. 89.

92.—(1) No corporation, and no director, officer or employee thereof, either personally or on behalf of such corporation, and no other company the majority of the capital stock of which is owned or controlled by such corporation, its shareholders, directors, officers or employees, shall, either directly or indirectly, transact the business of or act as insurance agent or broker within the meaning of *The Insurance Act*, or exercise pressure upon any borrower or mortgagor to place insurance for the security of such corporation, in or through any particular agency or brokerage office, but nothing in this section prevents such corporation from stipulating in its contract of loan that any required insurance must be effected with an approved insurer. Prohibition against acting as insurance agent R.S.O. 1960, c. 190.

(2) Subsection 1 does not apply to the director of a corporation who is able to satisfy the Superintendent of Insurance that the business of insurance is his major occupation. Exception R.S.O. 1950, c. 214, s. 90.

93. A person not of the full age of twenty-one years may deposit money with a registered corporation in his own name, and the money so deposited may be repaid to him, and he may give a valid discharge therefor, notwithstanding his minority. Minors may make deposits R.S.O. 1950, c. 214, s. 91.

94.—(1) A corporation is not bound to see to the execution of any trust, whether express, implied or constructive, to which any share of its stock, or any deposit, guaranteed investment certificate or debenture is subject. Trusts

(2) The receipt of the person in whose name any such share, deposit, guaranteed investment certificate or debenture stands in the books of the corporation is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such share, deposit, guaranteed investment certificate

or debenture stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

Application
of money
paid

(3) A corporation is not bound to see to the application of the money paid upon such receipt. R.S.O. 1950, c. 214, s. 92.

Power of
attorney by
corporation

95. A provincial corporation may, by writing under its seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute on its behalf, deeds to which it is a party in any capacity in any place situate in or outside Ontario, and every deed signed by such attorney, on behalf of the corporation and under his seal, binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1950, c. 214, s. 93.

Official
seal for use
abroad

96.—(1) A provincial corporation may have a seal to be known as the "official seal" for use in any territory, district or place outside Ontario, which shall be a facsimile of the seal of the corporation, with the addition on its face of the name of the territory, district or place where it is to be used.

Authority
to agent to
affix seal

(2) A corporation having an official seal may, by writing under its seal, authorize any person appointed for the purpose in any territory, district or place outside Ontario, to affix it to any deed or other document to which the corporation is party in any capacity in that territory, district or place.

Certifying
date and
period of
sealing

(3) The person affixing an official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing it.

Effect of
official seal

(4) A deed or other document to which an official seal is duly affixed binds the corporation as if it had been sealed with the seal of the corporation. R.S.O. 1950, c. 214, s. 94.

AMALGAMATION OF CORPORATIONS AND PURCHASE AND SALE OF ASSETS

Power to
unite with
other cor-
porations
and to
purchase or
sell assets

97.—(1) Any registered loan corporation or loaning land corporation may unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any other loan corporation or loaning land corporation in Canada, or may purchase the assets of any such corporation, or may sell its assets to any registered corporation, and for the purpose of carrying out such purchase or sale the purchasing corporation shall assume the liabilities of the vendor corporation, and may enter into such bond or agreement of indemnity with the

corporation or the individual shareholders thereof, or both, as may be necessary, and the corporations may enter into the contracts and agreements necessary to such union, merger, amalgamation, consolidation, sale or purchase.

(2) Sections 98 to 105 do not apply to the purchase by a registered extra-provincial corporation of the assets of a corporation that is not registered under this Act. R.S.O. 1950, c. 214, s. 95. Where ss. 98-105 do not apply

98.—(1) The directors of any corporation mentioned in section 97 may enter provisionally into a joint agreement under the seal of each of the corporations for the union, merger, amalgamation or consolidation of the corporations, or for the sale or purchase by the one corporation of the assets of the other corporation. Directors may make agreement for amalgamation or for purchase or sale of assets

(2) The agreement shall prescribe the terms and conditions of the proposed transaction and the mode of carrying it into effect. Matters to be specified in agreement

(3) If the two corporations are to be merged into one corporation, the agreement shall specify the name of the new or of the continuing corporation, and the number of directors and the officers thereof, and shall state who are to be the first directors and officers, the capital stock, the number of shares into which such stock is divided, the par value of the shares and the manner of converting the capital stock of each of the existing corporations into that of the new or continuing corporation. Idem

(4) The agreement shall contain such other details as the directors of the corporations deem necessary to perfect the new organization, and the union, merger, amalgamation and consolidation, and the after management and working thereof, and to complete the terms and mode of payment for the assets of one corporation purchased or acquired by the other. Other details

(5) In an agreement for the purchase and sale of assets, the consideration may consist wholly or in part of partly paid or of paid up shares of the permanent capital stock of the purchasing corporation. Consideration

(6) Such agreement or, if no agreement has been entered into but an offer has been made by a corporation under its seal for the purchase of the assets of another corporation, such offer shall be submitted to the shareholders of each corporation at a meeting thereof to be held separately for the purpose of taking the agreement or the offer into consideration. Agreement to be subject to approval of shareholders

(7) Notice of the time and place of the meeting of the corporation in which he holds shares and the objects thereof shall be given by written or printed notice addressed to every Notice of meeting to consider agreement

shareholder, together with a copy of the proposed agreement, at his last known post office address, and also by a general notice in a newspaper published at the chief place of business of the corporation once a week for six successive weeks.

Notice to
Registrar

(8) A like notice, together with two copies of the proposed agreement, shall be delivered to the Registrar at least one month before the date of either of the meetings of shareholders called to consider it. R.S.O. 1950, c. 214, s. 96.

Proceedings
to ratify
agreement

99. At each of the meetings of shareholders the agreement or offer shall be considered, and if at each meeting the agreement or offer is ratified or accepted by resolution passed by at least a three-fourths vote of such shares as are represented in person or by proxy and representing at least 50 per cent of the issued capital stock of the corporation, that fact shall be certified upon the agreement or offer by the secretary or manager under the seal of the corporation. R.S.O. 1950, c. 214, s. 97.

Dispensing
with
ratification

100. The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the ratification or acceptance of the agreement or offer by the shareholders of the purchasing corporation where it is shown, to his satisfaction that the shareholders, after due notice thereof, have ratified a general resolution or by-law authorizing the purchase of the assets of any loan corporation upon the basis and within the limits specified in such agreement or offer. R.S.O. 1950, c. 214, s. 98.

Ratified
agreement
to be filed

101.—(1) If the agreement is ratified or the offer is accepted at the meeting of the shareholders of each of the corporations, or in the case provided for in section 100 at the meeting of the shareholders of the selling corporation, the agreement or offer, with the certificates or certificate thereon, shall be filed with the Registrar.

Assent

(2) The Registrar shall submit the agreement or offer for the assent of the Lieutenant Governor in Council.

Effect of
assent

(3) If the Lieutenant Governor in Council assents thereto, the agreement or offer shall be deemed to be the agreement and act of union, amalgamation and consolidation of the corporations, or the agreement and deed of purchase and acquisition of the assets of the selling corporation by the purchasing corporation. R.S.O. 1950, c. 214, s. 99.

Certificate
of assent

102.—(1) Upon proof that the foregoing requirements have been duly complied with, the Minister shall issue a certificate under his hand and seal certifying the assent of the Lieutenant Governor in Council and the date thereof,

and declaring the purchase and the sale of the assets and the names of the corporations parties thereto, or, in the case of amalgamation, declaring the amalgamation of the corporations, naming them, and the name of the new or of the continuing corporation, together with such other matters, if any, as appear to him necessary or desirable in the public interest.

(2) The certificate of the Minister is for all purposes and in all courts conclusive evidence of all matters therein certified or declared. Effect as evidence

(3) The Registrar shall give public notice in *The Ontario Gazette* of the issue of the Minister's certificate. Notice

(4) It is sufficient to register a certified copy of the Minister's certificate in each registry division or land titles office in which instruments affecting lands or interests in lands included or intended to be included in the transfer or amalgamation, are registered. Registration of certificate of assent

(5) The fee payable for the registration is \$1, if the certificate is five folios or less, and 10 cents for each additional folio. Fee payable for registration

(6) Any document under the hand or purporting to be under the hand of the Registrar, certifying the document to be or to contain a true copy of the Minister's certificate or of any instrument referred to in the certificate, shall be registered in any registry division by the registrar thereof or by the master or local master of titles upon it being tendered to him for registration accompanied by the proper fee. Certificate of Registrar

(7) The certificate shall be entered in the general register of the registry division or in the book kept in the land titles office. Registration in general register

(8) Copies so certified of any such certificate or instrument shall be received by the master of titles and local masters of titles under *The Land Titles Act* as conclusive evidence of all matters therein certified or declared. Certified copies of certificate R.S.O. 1960, c. 204

(9) For the purpose of any instrument required to be registered under *The Bills of Sale and Chattel Mortgages Act*, it is sufficient in order to show the transmission of title in respect of any personal property or interest in personal property included or intended to be included in a transfer or amalgamation, such as is mentioned in section 101 and this section, if the instrument affecting such property or interest recites the certificate registered as provided in subsection 4 and states the registry division in which it is registered and its registration number. Bills of sale and chattel mortgages R.S.O. 1960, c. 34

(10) This section extends to and includes any such certificate or certified copy issued or purporting to have been issued Application of section

after the 13th day of April, 1897, under *The Loan Corporations Act*, being chapter 205 of the Revised Statutes of Ontario, 1897. R.S.O. 1950, c. 214, s. 100.

Evidence of
assent of the
Lieutenant
Governor
in Council

103. The Registrar may, by a certificate under his hand and seal endorsed upon or identifying the agreement or offer mentioned in subsection 6 of section 98, or any counterpart or copy thereof, certify that the agreement or offer has been assented to by the Lieutenant Governor in Council, and his certificate with a copy of the order in council attached is *prima facie* evidence of such assent. R.S.O. 1950, c. 214, s. 101.

Assets of
selling
corporation
to vest in
purchasing
corporation

104.—(1) In the case of a purchase and sale of assets so assented to, the assets of the selling corporation become vested in the purchasing corporation on and from the date of such assent without any further conveyance, and the purchasing corporation thereupon becomes and is responsible for the liabilities of the selling corporation.

Disposal of
assets by
purchasing
corporation

(2) In dealing with the assets of the selling corporation, it is sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant Governor in Council thereto, with the date of the assent.

Rights of
creditors

(3) No such transfer affects the rights of any creditor of the transferring corporation.

Privity of
contract
between
purchasing
corporation
and each
creditor
of selling
corporation

(4) By every such agreement made or purporting to be made under this Act, the purchasing corporation shall be deemed to covenant and agree with each creditor of the selling corporation that the purchasing corporation will pay to him the sum in which the selling corporation is indebted to him at such time and place as such sum would have been payable had such agreement not been made.

Dissolution
of selling
corporation
and of
corporations
amalgamated

(5) Where the Lieutenant Governor in Council assents to an agreement for the sale of the assets of a corporation, or to an agreement for the amalgamation of two or more corporations, the selling corporation, or the several corporations amalgamated, as the case may be, are, from the date of the assent, dissolved, except so far as is necessary to give full effect to the agreement. R.S.O. 1950, c. 214, s. 102.

Property
and rights
vested in
new corporation

105.—(1) In the case of an amalgamation, the corporations parties thereto are, from the date of the assent of the Lieutenant Governor in Council, consolidated and amalgamated and merged in and form one corporation by the name stated in the Minister's certificate, and, subject to the law of Ontario, possess all the rights, privileges and franchises of each of the amalgamated corporations.

(2) From the date of the assent all the business, real and personal property, and all the rights and incidents appurtenant thereto, all stock, mortgages, or other securities, subscriptions and other debts due, and other things in action belonging to each of the corporations are vested in the new or continuing corporation without further act or deed.

Business
and
property
vested in
new cor-
poration

(3) All rights of creditors and liens upon the property of each of the corporations are unimpaired by the amalgamation.

Creditors'
rights

(4) All debts, liabilities and duties of each of the amalgamated corporations thenceforth attach to the new or continuing corporation and may be enforced against it to the same extent as if they had been incurred or contracted by it. R.S.O. 1950, c. 214, s. 103.

Debts and
liabilities

106.—(1) Without limiting the powers that a registered loan corporation or loaning land corporation has under section 97, any such corporation may, for the purpose of acquiring the assets of any other loan corporation or loaning land corporation in Canada pursuant to sections 97 to 105, purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

Acquisition
by loan
corporation
of another
loan cor-
poration by
purchase of
shares

1. No such purchase shall be made unless authorized by the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council may authorize such purchase on the report of the Registrar supported by evidence that,
 - (a) an offer to purchase has been accepted by the holders of at least 67 per cent of the outstanding shares of such other corporation, such evidence of acceptance being in the form of written agreements or in the form of a resolution signed by or on behalf of the shareholders voting therefor, in person or by proxy, at a meeting of shareholders duly called to consider the offer, or being partly in one form and partly in the other; and
 - (b) the purchase has been approved by at least a three-fourths vote of such shares as are represented in person or by proxy at a meeting of the shareholders duly called to consider the purchase and representing at least 50 per cent of the issued capital stock of the purchasing corporation.
3. The power to purchase shares under this section is in addition to the powers set forth in section 137,

and the limitations and provisos contained in section 142 do not apply to any such purchase of shares.

4. Where a corporation has purchased shares under this section, it shall, under sections 97 to 105, acquire the assets and assume the duties, obligations and liabilities of the other corporation within a period of two years after the purchase has been authorized by the Lieutenant Governor in Council, but, on being satisfied that the circumstances so warrant, the Lieutenant Governor in Council may extend that period from time to time, and, after the expiration of that period and of any extension thereof, such shares shall not be allowed as assets of the purchasing corporation in the annual report prepared by the Registrar for the Minister and the Registrar may direct the corporation to sell or otherwise absolutely dispose of such shares.

Consideration for shares

- (2) The consideration for the shares acquired under the authority of this section may be cash or shares in the capital stock of the purchasing corporation or in part cash and in part shares of the purchasing corporation or such other consideration as is agreed upon.

No power to purchase own shares

- (3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.

Allotment rights not to apply

- (4) Any provisions in any letters patent or special Act by which a purchasing corporation was incorporated, or in any other statute or law, granting any shareholders or other persons a primary right to an allotment of shares, do not apply to the issue of any shares by the purchasing corporation for the purpose of subsection 2. 1955, c. 40, s. 1, *part*.

Interpretation

107.—(1) In this section, “fiduciary” includes trustee, bailee, executor, administrator, assignee, guardian, committee, receiver, liquidator or agent, and “instrument” includes every will, codicil, or other testamentary document, settlement, instrument of creation, deed, mortgage, assignment, Act of the Legislature, and a judgment, decree, order, direction and appointment of any court, judge, or other constituted authority.

Power of trust companies to unite with other corporations and to purchase or sell assets

- (2) Any registered trust company may unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any other trust company in Canada or may purchase the assets of any corporation in Canada or may sell its assets to any registered trust company, and for the purpose of carrying out such purchase or sale the purchasing corporation shall assume the liabilities of the vendor corporation, and may enter into such bond or agreement of

indemnity with the vendor corporation or the individual shareholders thereof, or both, as may be necessary, and the corporations may enter into the agreements necessary to such union, merger, amalgamation, consolidation, sale or purchase, and subsection 2 of section 97 and sections 98 to 105 apply *mutatis mutandis* thereto.

(3) In the case of a purchase of the assets of a loan corporation by a trust company under subsection 2, the trust company shall definitely set aside in respect of any debentures and deposits of the loan corporation of which the trust company assumes payment, securities, or cash and securities, equal to the aggregate amount of such debentures and deposits, and for the purposes of this subsection "cash" includes moneys on deposit and "securities" includes loans made upon securities.

Where trust company purchases assets of loan corporation

(4) On and from the assent of the Lieutenant Governor in Council, as provided in subsection 1 of section 102, to the purchase and sale, or to the amalgamation, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon either of the corporations, parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the purchasing or new or continuing corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Trusts to pass to new companies

(5) Whenever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the selling corporation or of either of the amalgamated corporations as the fiduciary, the name of the new or continuing corporation shall be deemed to be substituted for the name of the old corporation, and such instrument vests the subject matter therein described in the new or continuing corporation according to the tenor of, and at the time indicated or intended by the instrument, and the new or continuing corporation shall be deemed to stand in the place and stead of the old corporation.

Subject matter of trust to vest in new company

(6) Where the name of the selling corporation or of either of the amalgamated corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the new or continuing corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the selling or amalgamating corporation.

References in will or codicil

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem* issued or made by any court in Ontario to the selling corpora-

Duties of old corporation not completed

tion or to either of the amalgamated corporations, from which at the date of such assent it had not been finally discharged, the new or continuing corporations shall *ipso facto* be substituted therefor. R.S.O. 1950, c. 214, s. 104.

Acquisition
by trust
company of
another cor-
poration by
purchase of
shares

108.—(1) Without limiting the powers a registered trust company has under section 107, any such company may, for the purpose of acquiring the assets of any corporation in Canada pursuant to section 107, purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

1. No such purchase shall be made unless authorized by the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council may authorize such purchase on the report of the Registrar, supported by evidence that,
 - (a) an offer to purchase has been accepted by the holders of at least 67 per cent of the outstanding shares of such corporation, such evidence of acceptance being in the form of written agreements or in the form of a resolution signed by or on behalf of the shareholders voting therefor, in person or by proxy, at a meeting of shareholders duly called to consider the offer, or being partly in one form and partly in the other; and
 - (b) the purchase has been approved by at least a three-fourths vote of such shares as are represented in person or by proxy at a meeting of the shareholders duly called to consider the purchase and representing at least 50 per cent of the issued capital stock of the purchasing company.
3. The power to purchase shares under this subsection is in addition to the powers that a registered trust company has under section 139, and the limitations and provisos contained in section 142 do not apply to any such purchase of shares.
4. Where a company has purchased shares under this section, it shall, under section 107, acquire the assets and assume the duties, obligations and liabilities of the other corporation within a period of two years after the purchase has been authorized by the Lieutenant Governor in Council, but on being satisfied that the circumstances so warrant the Lieutenant Governor in Council may extend that period from

time to time; and after the expiration of that period and of any extension thereof, such shares shall not be allowed as assets of the purchasing company in the annual report prepared by the Registrar for the Minister and the Registrar may direct the company to sell or otherwise absolutely dispose of such shares.

(2) The consideration for the shares acquired under the authority of this section may be cash or shares in the capital stock of the purchasing company or in part cash and in part shares of such purchasing company or such other consideration as is agreed upon. Consideration

(3) Nothing in this section shall be construed as authorizing a company to purchase or acquire its own shares. No power to purchase own shares

(4) Any provisions in any letters patent or special Act by which a purchasing company was incorporated, or in any other statute or law, granting any shareholders or other persons a primary right to an allotment of shares, do not apply to the issue of any shares by the purchasing company for the purposes of subsection 2. 1955, c. 40, s. 1, *part*. Allotment rights not to apply

REGISTRAR

109.—(1) There shall be a Registrar and an assistant registrar who shall be appointed by the Lieutenant Governor in Council. Appointment

(2) The assistant registrar shall perform the duties of the Registrar in the case of the latter's absence or illness, or of a vacancy in the office of Registrar, and shall also perform such other duties as are assigned to him by the Lieutenant Governor in Council, by the Minister or by the Registrar. Assistant registrar, duties

(3) Without the leave of the Attorney General, no action or proceeding shall be brought or taken against the Registrar or assistant registrar for anything done or omitted in the performance, or intended or supposed performance, of his duties under this Act. R.S.O. 1950, c. 214, s. 105. Actions against Registrar

110. The Registrar shall have a seal of office, which shall bear upon its face the words "Registrar of Loan and Trust Corporations". R.S.O. 1950, c. 214, s. 106. Official seal

111.—(1) The Registrar shall keep, Registers:

(a) a register to be called the "Loan Companies' Register", wherein shall be recorded the names of the loan corporations that are from time to time entitled to registry; Loan companies' register

Loaning
land
companies'
register

- (b) a register to be called the "Loaning Land Companies' Register", wherein shall be recorded the names of the loaning land corporations that are from time to time entitled to registry; and

Trust
companies
register

- (c) a register to be called the "Trust Companies' Register", wherein shall be recorded the names of the trust companies that are from time to time entitled to registry.

No corpora-
tion to be
registered on
more than
one register

- (2) A corporation shall not be registered on more than one of such registers, and shall not transact or undertake business in Ontario other than the business for which it is registered. R.S.O. 1950, c. 214, s. 107.

Duties of
Registrar

112.—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to be registered and are entitled to registry, and of granting registry accordingly, is upon the Registrar, subject to appeal as provided in section 126.

Power to
require
evidence

(2) For the purposes of his duties, the Registrar may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Employ-
ment of
stenog-
rapher

(3) The evidence and proceedings in any matter before the Registrar may be reported by a stenographer who has taken an oath before the Registrar faithfully to report the same. R.S.O. 1950, c. 214, s. 108.

Annual
report

113.—(1) The Registrar shall prepare for the Minister from statements filed by the corporations and from any inspection or inquiries made, an annual report, showing particulars of the business of each corporation as ascertained from such statements, inspection and inquiries, and the report shall be printed and published forthwith after completion.

Only
authorized
investments
allowed as
assets

(2) In the report the Registrar shall allow as assets only such of the investments of the several corporations as are authorized by this Act or by their Acts of incorporation or by the general Acts applicable to such investments.

Corrections
in annual
statements

(3) In the report the Registrar shall make all necessary corrections in the annual statements made by the corporations herein provided and is at liberty to increase or diminish the assets or liabilities of the corporations to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office or any branch thereof or otherwise.

Appraise-
ment of
over-valued
real estate

(4) If it appears to the Registrar or if he has any reason to suppose from the statements prepared and delivered to him by the corporations or otherwise that the value placed

by any corporation upon the real estate owned by it, or any parcel thereof, is too great, or that the amount secured by mortgage or hypothec upon any parcel of real estate, together with interest due and accrued thereon is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, or that the value of any investments of the funds of the corporation or of its trust funds is less than the amount of the value of the investments shown in the books of the corporation, he may require the corporation to secure an appraisal of such real estate or other security by one or more competent valuers or he may himself procure such appraisal at the expense of the corporation, and, if it is made to appear that the value of such real estate or other security held is less than the amount at which it is carried on the books of the corporation or is not adequate security for the loan and interest, he may write off such real estate, loan and interest, or investment, a sum sufficient to reduce its book value to such amount as may fairly be realizable therefrom, such amount in no case to exceed the appraised value, and may insert such reduced amount in the report. R.S.O. 1950, c. 214, s. 109.

114.—(1) The Registrar or any person authorized under his hand and seal may, with the approval of the Minister, at any time within business hours, examine the books, vouchers, securities and documents of a corporation, and any officer or person in charge, possession, custody or control of the books, vouchers, securities or documents refusing or neglecting to afford such examination is guilty of an offence, and the corporation, if registered, is liable to have its registry suspended. Registrar may examine corporation books, etc.

(2) The corporation, on continued refusal or neglect to afford such examination, is liable to have its registry cancelled or not renewed after termination of the current certificate. Cancellation of registry for refusing examination

(3) Where a corporation is three months in default in the delivery of the financial statement required by section 152 or upon proof that its accounts have been materially and wilfully falsified, or that for eighteen consecutive months there has been no *bona fide* audit of the books and accounts, or where there is filed with the Registrar a requisition for audit bearing the signatures, addresses and occupations of at least twenty-five shareholders of the corporation, holding shares upon which not less than \$10,000 has been paid in, and alleging to the satisfaction of the Registrar specific fraudulent or illegal acts, or repudiation of contracts, or insolvency, and accompanied by a deposit of \$300 or such less sum as the Registrar fixes as security to cover the costs of the audit, the Registrar may nominate a competent accountant who shall under his Special audit in case of fraud, etc.

direction make a special audit of the corporations' books, accounts and securities, and make to him a written report thereupon verified upon oath.

Credentials
of auditor

(4) A special auditor so appointed is sufficiently accredited if he delivers to the secretary or to any managing officer of the corporation a written statement under the hand and seal of the Registrar to the effect that the Registrar has nominated him to audit the books, accounts and securities of the corporation.

Expenses
of special
audit

(5) The expense of a special audit shall be borne by the corporation, and the auditor's account therefor when approved in writing by the Registrar is conclusive and shall be paid forthwith.

Payment of
costs out
of deposit

(6) Where the facts alleged in the requisition appear to the Registrar to have been partly or wholly disproved by the audit, and he deems it just, he may pay the costs of the audit partly or wholly out of the deposit.

Return of
balance of
deposit

(7) The deposit or the balance, if any, remaining after payment of such costs shall be returned to the requisitioning shareholders upon the order of the Registrar.

Where
corporation
resists or
obstructs
audit

(8) Where a corporation, by its officer, employee, servant or agent having in his custody, possession or power the funds, books, vouchers, securities or documents of the corporation, refuses to have them duly audited as provided by section 66, or by this section or by section 115, or obstructs an auditor or examiner in the performance of his duties, the Registrar, upon proof of the fact, may suspend or cancel the registry of the corporation, or may terminate the registry upon the expiry of the current certificate of registry.

Report of
special
auditor

(9) If the report of the special auditor appears to the Registrar to disclose fraudulent or illegal acts on the part of the corporation, or a repudiation of its contracts, or its insolvency, he shall notify the corporation accordingly and furnish it with a copy of the report, allowing two weeks for a statement in reply to be filed with him.

Registrar's
decision

(10) Upon consideration of the report and of the corporation's statement in reply, and of such further evidence, documentary or oral, as he requires, the Registrar shall render his decision in writing, and may thereby continue or terminate, or suspend or cancel the registry of the corporation. R.S.O. 1950, c. 214, s. 110.

Appoint-
ment of
examiner

115.—(1) The Minister, of his own motion or upon an application being made to him in writing, may appoint any competent person to make a special examination and audit

of a corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

(2) The application shall be supported by such evidence as the Minister requires for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.

Evidence upon which inquiry to be ordered

(3) The Minister may require security for the payment of the costs of the inquiry to be given before appointing the examiner.

Security for costs

(4) The examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the like powers as may be conferred on a commissioner appointed under *The Public Inquiries Act*.

Powers of examiner as to summoning witnesses, etc.
R.S.O. 1960, c. 323

(5) Upon the conclusion of the examination, audit and inquiry, the examiner shall make his report in writing to the Minister.

Report to Minister

(6) The Registrar may, by notice in writing, whenever he sees fit, require a corporation to make, in addition to its annual or other returns required by this Act, a return verified by affidavit of one of its officers, or to furnish information verified in the same manner upon any subject connected with its affairs, and it shall make the return within the time mentioned in the notice.

Additional information

(7) The notice may be given to the president, secretary, managing director or other officer or officers having apparent control of the books of the corporation, or any of them in Ontario, and non-compliance with the notice is an offence.

Notice to be evidence

(8) Upon the request of the Dominion Mortgage and Investments Association, the Minister shall appoint an examiner under subsection 1. R.S.O. 1950, c. 214, s. 111.

Appointment of examiner

116.—(1) A notice published in *The Ontario Gazette* over the name of the Registrar or assistant registrar is, without further proof, *prima facie* evidence of the facts set forth in the notice.

Notice to be evidence

(2) All copies of returns, reports or other official publications of the Registrar purporting to be printed by the Queen's Printer, or to be printed by order of the Assembly, shall, without further proof, be admitted as evidence of such publication and printing and as true copies of the originals.

Official publications

(3) A certificate under the hand of the Registrar or assistant registrar and the Registrar's seal of office that on a stated day the corporation mentioned therein was or was not regis-

Certificate as to registry

tered, or that the registry of a corporation was originally granted, or was renewed, suspended, revived or cancelled, on a stated day, is *prima facie* evidence of the facts stated in the certificate.

Copies of
or extracts
from official
documents

(4) Copies of, or extracts from, any book, record, instrument or document in the office of the Registrar or of or from any official instrument or document issued under this Act shall, if certified by him or by the assistant registrar to be true copies or extracts and sealed with the Registrar's seal of office, be held as authentic and are *prima facie* evidence of the same legal effect as the original. R.S.O. 1950, c. 214, s. 112.

Annual
inspection of
registered
corpora-
tions

117.—(1) The Registrar personally shall visit or cause a duly qualified member of his staff to visit at least once annually the head office of each registered corporation, other than a corporation as to which he adopts the inspection of another government, and he shall inspect and examine the statements of the condition and affairs of each corporation and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as and when they become due, and whether or not it has complied with this Act, and the Registrar shall report thereon to the Minister as to all matters requiring his attention and decision.

Further
inspection

(2) Where the Registrar deems it necessary and expedient to make a further examination into the affairs of a corporation and so reports to the Minister, the Minister may in his discretion instruct the Registrar to visit or cause a duly qualified member of his staff to visit any branch office or offices of the corporation to inspect and examine into its affairs and to make such further inquiries as the Minister requires.

Material to
be furnished
on inspec-
tion

(3) For the purpose of an examination, the corporation shall prepare and submit to the Registrar such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in this Act, as the Registrar requires, and the officers, agents and servants of the corporation shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Production
of books

(4) In order to facilitate the examination of the books and records of a corporation, the corporation may be required by the Registrar, with the approval of the Minister, to produce the books and records at the head office or chief office of the corporation in Ontario, or at such other convenient place as the Registrar directs.

(5) The Registrar, or any person authorized by the Minister, may examine under oath the officers, agents or servants of the corporation for the purpose of obtaining any information that he deems necessary for the purpose of the examination. Examination

(6) Where an examination is made under subsection 2 of any branch or other office situated outside Ontario, the corporation shall pay the account in connection with the examination upon the certificate of the Registrar approved by the Minister. R.S.O. 1950, c. 214, s. 113. Expense of further inspection

118.—(1) If, as the result of the examination, the Registrar is of opinion that the assets of the corporation are insufficient to justify its continuance in business, he shall make a special report to the Minister on the condition of the corporation. Special report where condition unsound

(2) If the Minister, after a reasonable time has been given to the corporation to be heard by him, and upon such further inquiry and investigation as he sees fit to make, reports to the Lieutenant Governor in Council that he agrees with the opinion of the Registrar, the Lieutenant Governor in Council may, if he also concurs in the opinion, suspend or cancel the registry of the corporation, and the corporation shall thereupon cease to transact further business, but the Minister may, during such suspension or cancellation, issue such conditional registry as he deems necessary for the protection of the public. Power to cancel or suspend registry

(3) If the Minister deems it advisable, the conditional registry may provide that the corporation shall, during the continuance of the conditional registry, arrange for the sale of its assets and for the transfer of its liabilities. Sale and transfer under conditional registry

(4) If upon the expiration of the conditional registry no arrangement satisfactory to the Minister has been made for such sale and transfer, and if in the opinion of the Minister the corporation's condition is not then such as to warrant the restoration of the corporation's registry, the registration shall be cancelled. R.S.O. 1950, c. 214, s. 114. When registration cancelled

REGISTRATION

119.—(1) Applications for initial registry shall be made according to a form to be supplied by the Registrar, and the applicant shall deliver to the Registrar the application duly completed, together with such information, material and evidence as the form requires. Applications for initial registry

(2) The applicant shall, if required, furnish such further information, material and evidence, and give such public notice of the application as the Registrar directs, Material to be furnished

Financial statement to accompany application

(3) The applicant shall file with the application a statement in the form required by the Registrar of the financial condition and affairs of the corporation on the 31st day of December next preceding or on the last day of the fiscal year of the corporation, if the last day is not more than twelve months before the filing of the statement, and the statement shall be signed and verified as prescribed by section 69. R.S.O. 1950, c. 214, s. 115.

Registration of extra-provincial corporations

120.—(1) Where a corporation applying for registry has its head office outside Ontario, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario.

Execution of power of attorney

(2) The power of attorney shall be under the seal of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness who shall make oath as to its due execution.

Authentication

(3) The official positions in the corporation held by the officers signing the power of attorney shall be verified by the oath of a person cognizant of the facts.

Contents of power of attorney

(4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is, or is to be established, and shall expressly authorize the agent or agents to receive service of process in all actions and proceedings against the corporation in Ontario for any liability incurred by the corporation therein, and also to receive from the Registrar all notices that the law requires to be given, or which it is thought advisable to give, and shall declare that service of process for or in respect of such liability on any of the agents and receipt of the notices at the chief agency or personally by any of the agents is legal and binding on the corporation.

Filing of power of attorney

(5) The power of attorney and the affidavit of execution shall be filed with the Registrar.

Authority conferred by power of attorney

(6) The power of attorney may confer upon the agent or agents any further or other powers that the corporation deems advisable.

Effect of copy as evidence

(7) The production of a copy of the power of attorney certified by the Registrar is sufficient evidence for all purposes of the power and authority of the person or persons therein named to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy.

Changes in chief agent or agency

(8) Whenever the corporation changes any of its agents or the chief agency in Ontario, it shall file with the Registrar a similar power of attorney, stating the change or changes and

containing a similar declaration as to service of process and notices.

(9) After the power of attorney is filed, any process in any action or proceeding against the corporation for a liability incurred in Ontario may be validly served on the corporation at its chief agency, but nothing in this section renders invalid service in any other mode in which a corporation may be lawfully served. Service of process thereafter

(10) This section applies notwithstanding any special or other legislation of Ontario affecting any registered corporation. Application of section
R.S.O. 1950, c. 214, s. 116.

121.—(1) The Registrar shall cause to be entered on the proper register the name of every corporation entitled to registry, together with the date of the commencement of the registry and the term for which the registry is to endure. Recording registry; entries on register

(2) The term begins on the date of such commencement and ends not later than the 30th day of June next ensuing. Term of registry

(3) The Registrar shall also cause to be entered on the register the place where the head office and the chief agency, if any, are situate, and if there is a chief agency, the name and address of the chief agent and of the agent or agents appointed under section 120. Particulars to be entered

(4) If the registry is suspended, revived, revoked or cancelled, the date of and authority for such suspension, revivor, revocation or cancellation shall also be entered. Entering suspension etc., of registry

(5) The Registrar shall issue under his hand and seal of office to every registered corporation a certificate of registry, setting forth that the corporation is entitled to registry as a (*describing the corporation*) under this Act, and that the corporation is accordingly registered for the term stated in the certificate. Issue of certificate of registry

(6) Every certificate of registry shall specify the first day and the last day of the term for which the corporation is registered, and the corporation so registered shall be deemed to be registered from the commencement of the first day to the end of the last day so specified. Commencement and end of term

(7) A certificate of registry that does not specify an earlier date of expiry, unless sooner suspended or cancelled, remains valid until the next ensuing 30th day of June, when, if the corporation has complied with the law and continues solvent, it is entitled to a certificate of renewed registry, and so on every succeeding 30th day of June thereafter. Duration of registry

(8) Notwithstanding failure to comply with this Act within the prescribed time, the Registrar may, upon payment of the Interim certificate

prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. R.S.O. 1950, c. 214, s. 117.

Restrictions
upon use of
names

122.—(1) No corporation shall be registered under a name identical with that under which any other existing corporation is registered, or under any other name likely, in the opinion of the Registrar, to deceive, mislead or confuse the public as to its identity.

New names

(2) No registered corporation shall be registered under a new or different name except upon proof that such new or different name is authorized by law.

Change of
corporate
name

(3) Where a provincial corporation desires to adopt a name different from that by which it was incorporated, or where, in the opinion of the Registrar, the name by which the corporation was incorporated may be confused with that of another existing corporation, the Lieutenant Governor in Council may change the name of the corporation to some other name to be stated in the order in council.

Not to affect
rights or
obligations

(4) No change of name affects the rights or obligations of the corporation.

Change of
head office

(5) The location of the head office of a corporation may be changed in like manner.

Notice

(6) Such public notice shall be given of any change of name or head office, and of any application for such change, in *The Ontario Gazette* and otherwise as the Registrar directs. R.S.O. 1950, c. 214, s. 118.

What
admissible
to registry

123.—(1) Trust companies whose powers do not include that of buying and selling land as beneficial owner except as authorized by this Act and do not exceed the powers that are conferred upon trust companies under this Act, loan corporations and loaning land corporations that are solvent and fall within one of the following classes, may, upon due application, be admissible to registry:

1. Corporations duly constituted under the law of Ontario.
2. Corporations which, being duly incorporated or constituted under the laws of any other province of Canada, or of Canada, or of the United Kingdom, were in actual, active and *bona fide* operation in Ontario on the 16th day of April, 1912, but such corporations are admissible to registry only on due application and with the approval of the Minister and on such terms and conditions as he prescribes.

3. Corporations duly constituted as joint stock corporations under the laws of any other province of Canada or of Canada that issue only permanent shares and have a subscribed permanent stock of not less than \$300,000, whereof \$100,000 is paid in and unimpaired.

(2) Any registry purporting to have been made before the 1st day of May, 1914, by any corporation mentioned in paragraph 2 of subsection 1 shall be deemed for all purposes to have been a registry under this Act from the date of commencement of such purported registry. Registry validated

(3) A corporation incorporated under the laws of any other country may, upon due application, with the approval of the Minister, be admitted to registry on such terms and conditions as he prescribes. Corporations of other countries

(4) Any trust company authorized by a special Act of Ontario to carry on business in Ontario is not barred from registry merely because its powers exceed those conferred upon trust companies by this Act. R.S.O. 1950, c. 214, s. 119 (1-4). Company authorized by special Act

(5) A corporation that invests in or purchases mortgages, charges or hypothecs on real estate or that lends money on the security of real estate shall not be registered unless at least 95 per cent of such investments, purchases or loans are or are secured by first mortgages, charges or hypothecs. 1957, c. 63, s. 1. Minimum mortgage holdings

(6) Subject to subsection 3 of section 9, no other corporation shall be registered. R.S.O. 1950, c. 214, s. 119 (5). No others

124.—(1) Upon proof that registry or a certificate of registry has been obtained by fraud or mistake, or that a corporation exists for an illegal purpose, or is insolvent, or has failed to pay its obligations, or has wilfully, and after notice from the Registrar, contravened any of the provisions of this Act, or of the Act or instrument incorporating it, or of any law in force in Ontario, or has ceased to exist, its registry may be suspended or cancelled by the Registrar. Suspension or cancellation of registry

(2) On the suspension or cancellation of the registry of any existing corporation, the Registrar shall cause notice in writing thereof to be delivered to it. Notice to be given to the corporation

(3) Where the corporation has ceased to exist, the notice shall be published in *The Ontario Gazette*. Notice

(4) After such suspension or cancellation, or after termination of registry without renewal, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as is necessary for the winding up of Corporation to cease business except for winding-up purposes

its business, but any liability incurred by it may be enforced against it as if such suspension, cancellation or termination had not taken place. R.S.O. 1950, c. 214, s. 120.

Decision of Registrar to be in writing and to be delivered to corporation

125. Where in any disputed case the Registrar decides that a corporation is or is not legally entitled to registry, or to renewal of registry, or where he suspends, revives or cancels the registry of a corporation, his decision, except as otherwise provided, shall be given in writing, and he shall cause a copy thereof certified under his seal of office to be delivered to the corporation. R.S.O. 1950, c. 214, s. 121.

Review

126.—(1) Any corporation whose registration or right to registration is affected by a decision of the Registrar may, by notice in writing served upon the Registrar within thirty days after the delivery of the copy of the decision under section 125, request a hearing and review of the matter by the Registrar.

Notice of hearing

(2) Where a hearing and review is requested, the Registrar shall send a notice in writing to the corporation notifying it of the time and place of the hearing.

Evidence

(3) Upon a review, the Registrar may hear such evidence as is submitted to him that in his opinion is relevant to the matter in dispute, and he is not bound by any law respecting the admissibility of evidence, and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Registrar form the record.

Powers on review

(4) Upon a review, the Registrar may confirm or revoke his former decision or make alterations therein or additions thereto as he deems proper.

Decision to be delivered

(5) Notice of his decision made upon a review shall be delivered forthwith to the corporation that requested the review.

Appeal to Supreme Court

(6) Where the Registrar has reviewed a decision and given his decision upon the review, the corporation that requested the review may appeal to a judge of the Court of Appeal.

Form of appeal

(7) Every appeal shall be by notice of motion served upon the Registrar within thirty days after the delivery of the decision under subsection 5, and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, except that the Rules Committee may vary or amend such practice and procedure in respect of appeals taken under this section.

(8) The Registrar shall certify to the Registrar of the Certificate of Registrar Supreme Court,

- (a) the decision that has been reviewed by the Registrar;
- (b) the decision of the Registrar upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Registrar and other material that in the opinion of the Registrar are relevant to the appeal.

(9) The Attorney General may designate counsel to assist Counsel the judge upon the hearing of any appeal taken under this section.

(10) Where an appeal is taken under this section, the judge Order of judge may by his order direct the Registrar to make such decision as the Registrar is authorized to do under this Act and as the judge deems proper, and thereupon the Registrar shall act accordingly.

(11) The order of the judge is final and there is no appeal Further decision therefrom, but, notwithstanding the order, the Registrar has power to make any further decision upon new material or where there is a material change in the circumstances, and every such further decision is subject to this section. R.S.O. 1950, c. 214, s. 122.

127. The Registrar may at the request of the corporation, Cancellation of registry on request of corporation evidenced as he directs, cancel its registry. R.S.O. 1950, c. 214, s. 123.

128. A corporation not registered on the 1st day of July, 1900, shall not be granted registry if its stock or shares consist of or include terminating stock or shares. Where corporations not to be registered R.S.O. 1950, c. 214, s. 124.

129. If on receiving an application for registry the Minister Minister may direct amendment of by-law finds in the by-laws of the applicant anything repugnant to this Act or to the law of Ontario, he may direct an amendment of the by-laws, and, upon their being amended as directed and returned certified as having been so amended, the application may be proceeded with. R.S.O. 1950, c. 214, s. 125.

130.—(1) Every corporation doing business in Ontario, if Return of evidence as to by-laws required so to do by the Registrar, shall furnish satisfactory evidence that any by-law has been duly passed and is a legal and valid by-law according to the Act or instrument incorporating the corporation and also that the by-law conforms to the law of Ontario.

Refusal to
furnish
evidence

(2) A corporation refusing or failing to furnish such evidence promptly is liable to have its registry suspended or cancelled. R.S.O. 1950, c. 214, s. 126.

Capital
required
before
registration

131. No trust company shall be registered to transact business in Ontario that has not a capital paid in of at least \$100,000. R.S.O. 1950, c. 214, s. 127.

Representa-
tions that
standing of
corporation
is vouched
for by
Registrar

132.—(1) No corporation shall, under the penalty of becoming disentitled to registry or of having its registry suspended or cancelled, make, print, publish, circulate, authorize or be a party or privy to the making, printing, publishing or circulating of any statement or representation that its solvency or financial standing is vouched for by the Registrar or that the publication of its statement in his report is a warranty or representation of the solvency of the corporation or of the truth or accuracy of the statement in any particular.

Offence

(2) Any director, auditor, officer, servant, employee or agent of a corporation who makes or uses or authorizes or is party or privy to the making or using of any such statement or representation is guilty of an offence. R.S.O. 1950, c. 214, s. 128.

UNREGISTERED CORPORATIONS

No unregis-
tered cor-
poration to
undertake
business

133.—(1) No incorporated body or person acting in its behalf, other than a registered corporation and a person duly authorized by it to act in its behalf, shall undertake or transact in Ontario the business of a loan corporation or of a loaning land corporation or of a trust company. R.S.O. 1950, c. 214, s. 129 (1).

Certain
matters
be deemed
undertaking
business

(2) Any setting up or exhibiting of a sign or inscription containing the name of the corporation, or any distribution or publication of any proposal, circular, card, advertisement, printed form or like document in the name of the corporation, or any written or oral solicitation on the corporation's behalf shall, both as to the corporation and as to the person acting or purporting to act on its behalf, be deemed undertaking the business of the corporation within the meaning of this section. R.S.O. 1950, c. 214, s. 129 (2); 1957, c. 63, s. 2.

Offence

(3) Any promoter, organizer, manager, director, officer, collector, agent, employee or person who undertakes or transacts any business of a corporation that is not registered under this Act is guilty of an offence. R.S.O. 1950, c. 214, s. 129 (3).

134. Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Insurance Act*, assuming or using in Ontario a name that includes any of the words "Loan", "Mortgage", "Trust", "Trusts", or "Guarantee", in combination or connection with any of the words "Corporation", "Company", "Association" or "Society", or "Limited", or "Incorporated" or any abbreviations thereof, or in combination or connection with any similar collective term, or assuming or using in Ontario any similar name, or any name or combination of names that is likely to deceive or mislead the public is guilty of an offence, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation is also guilty of an offence, but where any of such combinations of words formed part of the corporate name of a corporation duly incorporated by or under the authority of an Act of Ontario or of the Parliament of Canada before the 1st day of July, 1900, the combination may continue to be used in Ontario as part of the corporate name. R.S.O. 1950, c. 214, s. 130.

Use of certain words in name of company while unregistered R.S.O. 1960, c. 190

135.—(1) In this section, "contract" means any contract, agreement, undertaking or promise, ^{Interpretation}

- (a) to pay to or for the contract holder any money or money's worth;
- (b) to sell, supply or procure any building or site or land or to bring about the purchase and sale or supply thereof; or
- (c) to construct or procure the construction of any house or building,

made upon any consideration that includes an entrance or membership fee, or expense contribution, initial, renewal, periodical or recurrent, or that includes any periodical or recurrent contribution to a fund, or account, or source for, or intended or alleged to be for, the carrying out of such contract, and includes any contract, agreement, undertaking or promise, the benefit of which to the contract holder paying any such consideration is to be wholly or partly postponed or deferred until other contract holders have been provided for, or is to depend upon the number or the persistence of the other contract holders, or upon the accession of new contract holders, or upon the order or sequence of the contract.

(2) Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Insurance Act*, undertaking or effecting, or offering to undertake or effect, any

Prohibition of certain contracts

contract is guilty of an offence, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, is also guilty of an offence, and the convicting magistrate, in addition to imposing the prescribed penalty, may at the time of conviction or thereafter make such order for the restitution of the money that was unlawfully taken as to him seems just, and, in default of compliance with such order, the offender is liable to imprisonment for a term of not more than twelve months. R.S.O. 1950, c. 214, s. 131, *revised*.

Use of sign,
name or
document
inducing
illegal
contract

136. Where in any case arising under section 133, 134 or 135 it is found by the magistrate that the person, partnership, organization, society, company or corporation charged or his or its agent is exhibiting or using any sign, inscription or name, or distributing, using or publishing any document, including any proposal, circular, card, advertisement, notice, application, contract or printed form that, in the opinion of the magistrate, induces, or tends to induce, a contravention of any such section, or is likely to deceive or mislead the public either as to the party or the status of the party undertaking the contract, or as to the nature, terms or effect of the contract, the magistrate may summarily order the discontinuance of such sign, inscription, name or document, and non-compliance with such order is an offence. R.S.O. 1950, c. 214, s. 132, *revised*.

INVESTMENTS

Securities

137.—(1) A registered loan corporation and a registered loaning land corporation may purchase or invest in,
R.S.O. 1950, c. 214, s. 133 (1), *part*.

real estate
and life
insurance

(a) mortgages, charges or hypothecs upon improved real estate in Ontario or elsewhere where the corporation is carrying on business, or mortgages or assignments of such life insurance policies as have at the date of the purchase or investment an ascertained cash surrender value admitted by the insurer; 1959, c. 54, s. 5 (1).

government
bonds

(b) the debentures, bonds, stock or other securities of or guaranteed by the government of Canada or of or guaranteed by the government of any province of Canada, or of or guaranteed by the government of the United Kingdom, or of any of Her Majesty's dominions, colonies or dependencies, or of any state forming part of any such dominion, colony or dependency, or of or guaranteed by any foreign country or state forming part of such foreign country

where the interest on the securities of such foreign country or state has been paid regularly for the previous ten years, or of any municipality or school corporation in Canada or elsewhere where the company is carrying on business, or guaranteed by any municipal corporation in Canada, or secured by rates or taxes levied under the authority of the government of any province of Canada on property situated in such province and collectible by the municipalities in which the property is situated; R.S.O. 1950, c. 214, s. 133 (1), cl. (b).

- (c) the bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures or other securities are payable in the currency of Canada, the United Kingdom, any member of the Commonwealth or the United States of America; 1955, c. 40, s. 2 (1). bonds, etc.
issued or
guaranteed
by Inter-
national
Bank

R.S.C. 1952,
c. 9
- (d) the bonds, debentures, debenture stock or other securities of any company or bank incorporated by Canada, or by any province of Canada, or by any former province now forming part of Canada, that are secured by a mortgage or hypothec to a trust company either singly or jointly with another trustee upon improved real estate of such company or bank or other assets of such company of the classes mentioned in clauses *a* and *b*; R.S.O. 1950, c. 214, s. 133 (1), cl. (c). bonds
secured by
trust deed
- (e) the bonds or debentures of a company or institution incorporated in Canada that are secured by the assignment to a trust company in Canada of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity; 1959, c. 54, s. 5 (2). Dominion
subsidy
bonds
- (f) the bonds or debentures of a company or institution incorporated in Canada that are secured by the assignment to a trust company in Canada of payments that are payable, by virtue of an Act of a province of Canada, by or under the authority of the province, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures provincial
subsidy
bonds

outstanding and to meet the principal amount of the bonds or debentures upon maturity; 1959, c. 54, s. 5 (3).

railroad
securities

- (g) equipment trust obligations or certificates issued to finance the purchase of transportation equipment for a railway company incorporated in Canada or for a railway company owned or controlled by a railway company so incorporated, which obligations or certificates are fully secured by an assignment of the transportation equipment to, or by the ownership thereof by, a trustee, and by a lease or conditional sale thereof to the railway company; R.S.O. 1950, c. 214, s. 133 (1), cl. (f).

debentures

- (h) the bonds, debentures or other evidences of indebtedness of any company or bank that has paid regular dividends on its preferred or on its common stocks for not less than five years immediately preceding the date of the purchase or investment, or the bonds, debentures or other evidences of indebtedness of any company or bank that are guaranteed by a company or bank that has paid regular dividends on its preferred or on its common stocks for not less than five years immediately preceding the date of the purchase or investment, provided that at the date of the purchase or investment the amount of bonds, debentures and other evidences of indebtedness so guaranteed is not in excess of 50 per cent of the amount at which such preferred or common stocks, as the case may be, are carried in the capital stock account of the guaranteeing company or bank; 1959, c. 54, s. 5 (4).

preferred
stock

- (i) the preferred stocks of any company or bank that has paid regular dividends upon such stocks or upon its common stocks for not less than five years immediately preceding the purchase of the preferred stocks; 1959, c. 54, s. 5 (5).

common
stock

- (j) the fully-paid common stocks of any company or bank which, in each year of a period of seven years ended less than one year before the date of purchase or investment, has paid a dividend upon its common stocks of at least 4 per cent of the average value at which the stocks were carried in the capital stock account of the company or bank during the year in which the dividend was paid; or 1959, c. 54, s. 5 (6).

real estate
for produc-
tion of
income

- (k) real estate in Canada for the production of income, either alone or jointly with any other corporation,

- (i) if a lease of the real estate is made to, or guaranteed by, a company that has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or that has paid a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid,
- (ii) if the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested by the corporation in the real estate within the period of the lease, but not exceeding thirty years from the date of investment, and
- (iii) if the total investment of the corporation in any one parcel of real estate does not exceed one-half of 1 per cent of the book value of the corporation's total funds,

and the corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate, but the total book value of the investments of the corporation in real estate for the production of income pursuant to this clause shall not exceed 5 per cent of the book value of the corporation's total funds. 1955, c. 40, s. 2 (2).

(2) In addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate pursuant to the *National Housing Act* (Canada) or the *National Housing Act, 1954* (Canada) or any amendments thereto, a registered loan corporation or a registered loaning land corporation may invest its funds to an aggregate amount not exceeding five per cent of its total assets in Canada allowed by the Registrar in any other classes or types of investments pursuant to the said Acts, or any amendments thereto, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. R.S.O. 1950, c. 214, s. 133 (2); 1954, c. 47, s. 1.

Investment
in national
housing
R.S.C. 1952,
c. 188;
1953-54,
c. 23 (Can.)

(3) A registered loan corporation and a registered loaning land corporation may lend money on the security of,

- (a) any of the securities mentioned in clauses a, b and d

Loans on
securities by
loan and
loaning land
corporations

of subsection 1, or on improved real estate or leaseholds, or on guaranteed investment certificates of a trust company; or

- (b) the bonds, debentures, notes, shares or other securities of any company or bank, other than those mentioned in clause *d* of subsection 1, provided that the market value of the securities on which the loan is made at all times exceeds the amount of the loan by at least 20 per cent of the market value, and provided further that the amount loaned on the security of the shares of any such company or bank does not at any time exceed 10 per cent of the market value of the total outstanding shares of such company or bank. R.S.O. 1950, c. 214, s. 133 (3).

"Basket"
clause

138.—(1) Subject to subsection 2, a registered loan corporation or a registered loaning land corporation may make investments and loans not authorized by section 137 so long as the total book value of the investments and loans so made and held by the corporation, excluding those that are or at any time since acquisition have been eligible apart from this section, do not exceed 15 per cent of the corporation's unimpaired paid-in capital and reserve.

Idem

(2) This section does not enlarge the authority conferred by this Act to invest in or lend on the security of real estate, mortgages, charges or hypothecs. 1959, c. 54, s. 6.

Investments
by trust
companies

139.—(1) A registered trust company may invest its funds and moneys received for guaranteed investment or as deposits in any of the securities mentioned in subsection 1 of section 137, provided that at all times at least 50 per cent of moneys received for guaranteed investment in the manner authorized by subsection 1 of section 82 or as deposits in the manner authorized by subsection 1 of section 80 shall be invested in or loaned upon such securities only as are authorized by *The Trustee Act*. R.S.O. 1950, c. 214, s. 134 (1).

R.S.O. 1960,
c. 408

Real estate
for produc-
tion of
income

(2) The total book value of the investments of a registered trust company in real estate for the production of income shall not exceed, in the case of its funds, 5 per cent of the book value of such funds and, in the case of moneys received for guaranteed investment or as deposits, 5 per cent of such moneys held by the company or 25 per cent of the company's unimpaired paid-up capital and reserve; provided that the amount invested in any one parcel of such real estate by a company shall not exceed one-half of 1 per cent of the aggregate of the book value of its funds and of the moneys held by it for guaranteed investment or as deposits. 1955, c. 40, s. 3.

(3) In addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate pursuant to the *National Housing Act* (Canada) or the *National Housing Act, 1954* (Canada) or any amendments thereto, a registered trust company may invest its funds to an aggregate amount not exceeding 5 per cent thereof and may, notwithstanding subsection 1, invest moneys received for guaranteed investment or as deposits under sections 82 and 80 to an aggregate amount not exceeding 5 per cent of such moneys, in any other classes or types of investments pursuant to the said Acts, or any amendments thereto, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. Investment in national housing
R.S.C. 1952, c. 188
1953-54, c. 23 (Can.)
R.S.O. 1950, c. 214, s. 134 (2); 1954, c. 47, s. 2.

(4) Subject to the proviso in subsection 1, a registered trust company may lend its funds and moneys received for guaranteed investment or as deposits on the security of, Loans by trust companies

- (a) any of the securities mentioned in clauses *a*, *b* and *d* of subsection 1 of section 137, or on improved real estate or leaseholds, or on guaranteed investment certificates of a trust company; or real estate, etc.
- (b) the bonds, debentures, notes, stocks or other securities of any company or bank, other than those mentioned in clause *d* of subsection 1 of section 137, provided that the market value of the securities on which the loan is made at all times exceeds the amount of the loan by at least 20 per cent of the market value, and provided further that the amount loaned on the security of the stocks of any such company or bank does not at any time exceed 10 per cent of the market value of the total outstanding stocks of such company or bank. bonds, debentures, etc.
R.S.O. 1950, c. 214, s. 134 (3).

140.—(1) Subject to subsection 2, a registered trust company may, with respect to its funds and with respect to moneys received for guaranteed investment or as deposits under section 82 or 80, make investments and loans not authorized by section 139, so long as the total book value of the investments and loans so made and held by the company, excluding those that are or at any time since acquisition have been eligible apart from this section, do not exceed 15 per cent of the company's unimpaired paid-in capital and reserve. "Basket" clause

(2) This section does not enlarge the authority conferred by this Act to invest in or lend on the security of real estate, mortgages, charges or hypothecs, and does not affect the Idem

operation of the proviso in subsection 1 of section 139. 1959, c. 54, s. 7.

Personal
security as
collateral

141.—(1) A corporation may take personal security as collateral for any advance or for any debt due to the corporation.

Power to do
acts and to
exercise
remedies

(2) The corporation may do all acts that are necessary for advancing sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing due thereon, and the observance and fulfilment of any conditions annexed to the advance, and for enforcing the forfeiture of any term or property consequent on the non-fulfilment of such conditions or, of conditions entered into for delay of payment. R.S.O. 1950, c. 214, s. 135

Restrictions
on amount
of invest-
ments

142.—(1) On and after the 14th day of April, 1925, no corporation shall, R.S.O. 1950, c. 214, s. 136 (1), *part*.

(a) except as to securities issued or guaranteed by the government of Canada or the government of any province of Canada or by any municipal corporation in Ontario,

- (i) subject to subclause iii, invest in any one security an amount exceeding 15 per cent of its own paid in capital stock and reserve funds, or
- (ii) make a total investment in any one company or bank maturing in more than one year, including the purchase of its stock or other securities and the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of an amount exceeding 15 per cent of its own paid in capital stock and reserve funds, or
- (iii) make an investment referred to in subclause ii maturing in one year or less in an amount that together with the amount invested to which subclause ii applies exceeds in the case of a registered loan corporation the aggregate of 20 per cent of its own paid in capital stock and reserve funds and 5 per cent of moneys borrowed on debentures and by way of deposit under section 71 and, in the case of a registered trust company, the aggregate of 20 per cent of its own paid in capital stock and reserve funds and 5 per cent of moneys received as deposits and for guaranteed investment under sections 80 and 82; 1958, c. 53, s. 1.

- (b) make any investment the effect of which will be that the corporation will hold more than 20 per cent of the stock or more than 20 per cent of the debentures of any one corporation, company or bank. R.S.O. 1950, c. 214, s. 136 (1), cl. (b); 1959, c. 54, s. 8.

(2) In the case of a trust company, subsection 1 applies only to the investment of its funds and of moneys received for guaranteed investment or as deposits under sections 82 and 80.

(3) This section does not apply to an investment in the paid up capital stock of a trust company having its head office in Ontario if the investment has been authorized by the Lieutenant Governor in Council. R.S.O. 1950, c. 214, s. 136 (2, 3).

143.—(1) The Lieutenant Governor in Council may authorize the acceptance by a corporation of bonds, notes, stocks, debentures or other assets not fulfilling the requirements of this Act,

- (a) obtained in payment or part payment for securities sold by the corporation; or
- (b) obtained under a *bona fide* arrangement for the re-organization of a company whose securities were previously owned by the corporation; or
- (c) obtained under an amalgamation with another company of the company whose securities were previously owned by the corporation; or
- (d) obtained for the *bona fide* purpose of protecting investments previously made by the corporation; or
- (e) obtained by virtue of the purchase by the corporation of the assets of another corporation,

but the bonds, notes, stocks or debentures or other assets whose acceptance is so authorized shall be sold and disposed of within five years after the acquisition thereof, or within such further time not exceeding one year as the Lieutenant Governor in Council, on report of the Minister, fixes and determines, unless it can be shown to the satisfaction of the Minister that the bonds, notes, stocks, debentures or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

(2) For the purpose of determining the eligibility as investments under this Act of the preferred or common stocks of a company that has been voluntarily re-organized without the impairment of the status or value of its securities, divi-

dends paid on the preferred and common stocks of the company before the re-organization may be counted as dividends paid on such stocks respectively of the re-organized company. R.S.O. 1950, c. 214, s. 137.

May hold certain estates and interests in land; and may dispose of same

144.—(1) A registered corporation may hold real estate which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of such real estate, and may sell or otherwise dispose of as it deems advisable any mortgage or security that it has lawfully acquired.

Limitation of time for holding except in case of loaning land corporation

(2) The corporation, not being a loaning land corporation registered under this Act, shall, subject to section 145, sell any real estate acquired by it under a mortgage, charge or hypothecation, or in satisfaction of a debt, within twelve years after it has been so acquired, otherwise it may be forfeited to Her Majesty for the use of Ontario, but no such forfeiture shall be enforced until the expiration of six calendar months after notice in writing to the corporation of the intention of Her Majesty to claim such forfeiture.

Powers and rights of grantors and grantees

(3) The corporation may give receipts, acquittances and discharges, either absolutely and wholly or partially, and may grant or take such deeds, assignments or other instruments as are necessary for carrying any such holding, purchase, exchange or re-sale into effect, and the grantee or assignee in any such instrument stands in the place of, and is entitled to, and has all the same rights, powers and remedies, and is subject to the same obligations and liabilities as the grantor or assignor would have been entitled to or would have been subject to if the grant or assignment had not been made. R.S.O. 1950, c. 214, s. 138.

Power to hold real estate for business

145. A registered corporation may hold to its own use and benefit such real estate as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real estate. R.S.O. 1950, c. 214, s. 139.

Power to construct larger building and to lease part thereof

146. A registered corporation, when so authorized by its letters patent or by the Lieutenant Governor in Council, may acquire or may construct, on any lands held pursuant to section 145, a building larger than is required for the transaction of its business and may lease any part of the building not so required. R.S.O. 1950, c. 214, s. 140.

147. A provincial corporation shall not make or undertake any investment under section 145 or 146 that will cause the total amount at which such investments are carried on its books to exceed 35 per cent of its paid up capital and reserve funds. R.S.O. 1950, c. 214, s. 141.

Limit of amount of investments in buildings

148. A corporation shall not lend or advance money to any of its directors or auditors or to the wife or child of any director or auditor R.S.O. 1950, c. 214, s. 142.

Loans to directors and auditors prohibited

149. The Registrar may request any corporation to dispose of and realize any of its investments that are not authorized by this Act, and it shall within sixty days after receiving the request dispose of and realize such investments, and if the amount realized therefrom falls below the amount paid by it for such investments, its directors are jointly and severally liable for the payment to it of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment, and is able to do so, enters his written protest against such investment, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. R.S.O. 1950, c. 214, s. 143, *amended*.

Corporation may be required to dispose of unauthorized investments

RETURNS

150.—(1) Every trust company receiving deposits in the manner authorized by subsection 1 of section 80 shall make a return to the Registrar on or before the 15th day of January in each year, drawn in accordance with the form prescribed by the Registrar, showing the amount of the deposits, and showing all securities, including loans made upon securities, and cash, including money on deposit, ear-marked and definitely set aside as provided in subsection 2 of section 80 as such amounts stood on the 31st day of December next preceding, and stating that they were on such date so ear-marked and definitely set aside.

Annual returns of deposits and securities allocated

(2) Every trust company receiving funds for guaranteed investment as mentioned in subsection 1 of section 82 shall make a return to the Registrar on or before the 15th day of January in each year, drawn in accordance with the form prescribed by the Registrar, showing the amount of the funds, and showing all securities, including loans on securities, and cash, including money on deposit, ear-marked and definitely set aside as provided in subsection 3 of section 82 as such amounts stood on the 31st day of December next preceding,

Annual returns of guaranteed funds and securities allocated

and stating that they were on such date so ear-marked and definitely set aside.

Semi-annual
returns by
trust
companies
as to
deposits
and liquid
securities
available

(3) Every trust company receiving deposits in the manner authorized by subsection 1 of section 80 shall make a return to the Registrar on or before the 15th days of January and July in each year, drawn in accordance with the form prescribed by the Registrar, showing the amount of the deposits and showing the amount of cash on hand and on deposit, and the amount of debentures, bonds, stock or other securities of, or guaranteed by Canada, and of, or guaranteed by, any province of Canada, less any encumbrances thereon, and the amount of bonds, debentures and other securities of any municipal corporation in Ontario or of any city in Canada, less any encumbrances thereon, and the bonds or debentures issued by any company incorporated in Canada in respect of which bonds or debentures annual or semi-annual subsidy payments sufficient to pay both principal and interest thereof are, by virtue of any Act of Canada or of a province thereof, payable by the government of Canada or province thereof to a trust company as trustee for the holders of such bonds or debentures, and the principal amount of any moneys payable to the company on demand, the payment of which is secured by the mortgage or pledge of any of the securities mentioned in this subsection as the said amounts stood at the end of the last preceding month, and including in such return all such cash and securities and loans as defined in this subsection, whether owned by the company or held by it for guaranteed investments under section 80 or 82 and stating that they were on hand at the date mentioned in the return. R.S.O. 1950, c. 214, s. 144.

Semi-annual
return by
loan
company as
to deposits

151. Every loan company receiving deposits shall make a return to the Registrar half-yearly on or before the 15th days of January and July in each year, drawn in accordance with the form prescribed by the Registrar, showing the amount of the deposits and showing the amount of cash on hand and on deposit and the amount of debentures, bonds, stock or other securities of or guaranteed by Canada, and of or guaranteed by any province of Canada, less any encumbrances thereon, and the amount of bonds, debentures and other securities of any municipal corporation in Ontario or of any city in Canada, less any encumbrances thereon, and the bonds or debentures issued by any company incorporated in Canada in respect of which bonds or debentures annual or semi-annual subsidy payments sufficient to pay both principal and interest thereof are, by virtue of any Act of Canada or of a province thereof, payable by the government of Canada or province thereof to a trust company as trustee for the holders of such bonds or debentures, and the principal amount of any moneys payable

to the company on demand, the payment of which is secured by the mortgage or pledge of any of the securities mentioned in this section as such amounts stood at the end of the last preceding month, and stating that they were at the date mentioned in the return on hand and available for depositors. R.S.O. 1950, c. 214, s. 145.

152.—(1) The managing director, manager or secretary of every registered corporation shall prepare annually on the 1st day of January, or within two months thereafter, according to a printed form to be supplied on application to the Registrar, a statement of the financial condition and affairs of the corporation up to the 31st day of December next preceding or to any day not more than two months prior thereto. R.S.O. 1950, c. 214, s. 146 (1); 1959, c. 54, s. 9.

Annual
statement
to the
Registrar

(2) In the case of an extra-provincial corporation, the Registrar may accept the statement required by subsection 1 as for the then last fiscal year of the corporation. R.S.O. 1950, c. 214, s. 146 (2).

Extra-
provincial
corporation

(3) The statement required by subsection 1 shall have attached a report by the auditor stating whether in his opinion the balance sheet contained in such statement presents fairly the financial position of the corporation and stating whether such other information as the Registrar prescribes contained in such statement is presented fairly and making such comments as he considers necessary,

Certificate of
auditor on
annual
statement

(a) if the balance sheet is not in agreement with the accounting records;

(b) if the balance sheet is not in accordance with the requirements of the Registrar;

(c) if he has not received all the information and explanations that he has required; or

(d) if proper accounting records have not been kept, so far as appears from his examination. 1960, c. 61, s. 5.

(4) Such annual statement shall also be proved by the affidavit of the president or vice-president and of the managing director, or some other principal officer of the corporation, and shall be accompanied by a certified copy of a resolution of the directors showing that such annual statement was adopted by them.

Affidavit of
president,
etc.

(5) Such annual statement shall be filed with the Registrar on or before the 1st day of March next ensuing.

Time for
filing with
Registrar

(6) On sufficient cause shown and upon payment of the prescribed fee, the Registrar may by writing under his hand and seal of office, before or after the 1st day of March, extend the time for filing an annual statement.

Extending
time for
filing of
statement

Penalty for
failure to
file
statement
or supply
information

(7) Any corporation that does not file its annual statement as required by this section, or make prompt and explicit answer to any inquiries then or at any time made by the Registrar touching its contracts, finances, stock, shares, securities, obligations, by-laws or books or, if required, produce for examination its books, records, securities, accounts and vouchers is liable to suspension, cancellation, or non-renewal of registry, and is liable to a penalty of \$50 for each day of default, but not exceeding in the whole \$1,000.

Extra-
provincial
corporations

(8) Where it is made to appear to the Registrar that an extra-provincial corporation does not borrow moneys in Ontario by the sale of its bonds, debentures or other securities or by accepting deposits or other moneys for investment and does not exercise in Ontario any of the powers of a trust company, other than the loaning of money in Ontario, the Registrar may direct that this section does not apply to the corporation, in which case it shall make such returns and give such information as the Registrar requires.

Copy of
periodical
statements

(9) The corporation shall file with the statement a certified copy of any statement furnished to shareholders during the year then ended. R.S.O. 1950, c. 214, s. 146 (4-9).

MISCELLANEOUS

Exemption

153. Any amount, not exceeding \$300, standing to the credit of a depositor in a registered corporation is not, while in the hands of the corporation or while in course of transmission from the corporation, liable to demand, seizure or detention under legal process as against the depositor or his nominee, assignee or representative, or as against any person to whom the corporation is by sections 154 and 155 authorized to pay such amount. R.S.O. 1950, c. 214, s. 147.

Direction
as to
disposition
of deposits
or debentures
on
death

154.—(1) A person who,

- (a) has on deposit with a corporation a sum not exceeding \$600;
- (b) is the holder of debentures or guaranteed investment certificates issued by a corporation for a sum not exceeding \$600; or
- (c) has on deposit with a corporation a sum and holds debentures or guaranteed investment certificates issued by the corporation, the amounts of which in the aggregate do not exceed \$600,

may by a writing, signed by him and deposited with the corporation, nominate any person to receive the amount thereof at his death.

(2) Subject to *The Succession Duty Act*, upon receiving an affidavit as to the death of a person who has made a nomination under subsection 1, the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due to such person. R.S.O. 1950, c. 214, s. 148.

Rights of
corporation
R.S.O. 1960,
c. 386

155. Subject to *The Succession Duty Act*, where a depositor, debenture holder or holder of a guaranteed investment certificate as described in clause *a*, *b* or *c* of subsection 1 of section 154 dies without making a nomination in accordance with that section, the deposit, debenture or guaranteed investment certificate may, without letters probate or letters of administration being taken out, be paid or transferred to the person who appears to the corporation to be entitled (under the will of such depositor, debenture holder or holder of a guaranteed investment certificate or in the case of an intestacy under the law relating to devolution of property) to receive it, upon receiving an affidavit of the death and that the person claiming is so entitled. R.S.O. 1950, c. 214, s. 149.

Where no
direction

156. Where the corporation, after the death of a depositor, debenture holder or holder of a guaranteed investment certificate, has paid or transferred the deposit, debenture or guaranteed investment certificate to the person who at the time appeared to be entitled thereto, the payment or transfer is valid and effectual with respect to any demand from any other person as the legatee or next of kin or as the lawful representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit, debenture or guaranteed investment certificate from the recipient or transferee. R.S.O. 1950, c. 214, s. 150.

Payments
by mistake

157. Delivery of any written notice or document to a corporation for any purpose of this Act, where the mode is not otherwise expressly provided, may be by letter delivered at its head or chief office in Ontario or its chief agency therein, or sent by registered mail addressed to it, its manager or agent at such head or chief office or agency, or by delivering the notice personally to an authorized agent of the corporation. R.S.O. 1950, c. 214, s. 151.

Service of
notices

158. Except where Part VII of *The Corporations Act* is inconsistent with this Act, that Part applies to the winding up of corporations to which this Act applies, substituting the word "Registrar" for the words "Provincial Secretary". R.S.O. 1950, c. 214, s. 152; 1955, c. 40, s. 4.

Winding up
R.S.O. 1960,
c. 71

OFFENCES AND PENALTIES

Refusal to
make entries
or exhibit
same, etc.

159. Every director, manager, auditor, officer, agent collector, servant or employee of a corporation who refuses or neglects to make any proper entry in any book of record, entry or account of the corporation, or to exhibit the same, or to allow the same to be inspected or audited, either for the general purposes of the corporation or for the purposes of this Act, and extracts to be taken therefrom, is guilty of an offence. R.S.O. 1950, c. 214, s. 153.

False
statements

160.—(1) Every person who makes any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of a corporation is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than five years. R.S.O. 1950, c. 214, s. 154 (1).

Officers'
liability

(2) Every president, vice-president, director, manager or other officer and every auditor of a corporation, who,

(a) prepared, signed, approved or concurred in any such account, statement, return, report or document containing such false or deceptive statement; or

(b) used the same with intent to deceive or mislead any person,

shall be held to have wilfully made such false or deceptive statement and, further, is responsible for all damages sustained by any person in consequence thereof. R.S.O. 1950, c. 214, s. 154 (2); 1960, c. 61, s. 6.

General
penalty

161.—(1) For every contravention of this Act, which is declared to be an offence and for which no other penalty is provided, the offender, on summary conviction, for the first offence, is liable to a fine of not less than \$20 and not more than \$200 and, for any subsequent offence of the same kind, is liable to imprisonment for a term of not less than three months and not more than twelve months or, in the case of an organization, society, association, company or corporation, to a fine of not more than \$1,000.

Limitations
of prose-
cutions

(2) The information shall be laid or made in writing within one year after the commission of the offence.

Disposition
of fines

(3) The fines imposed under this Act belong to the Crown in right of Ontario. R.S.O. 1950, c. 214, s. 155, *part*.

FEES

Fees for
incor-
poration

162.—(1) The fees for letters patent of incorporation under this Act are those set out in Schedule A.

(2) The fees set out in Schedule B are payable in respect ^{Other fees} of the matters therein mentioned.

(3) The fees are payable to the Registrar. Payment to Registrar

(4) Where a registered corporation proves to the satisfaction of the Registrar that it is discontinuing business in Ontario, and has given such public notice of intended discontinuance as is required, the fee for registry or renewal of registry, as the case may be, may, on the certificate of the Registrar, be commuted to one-fourth of the prescribed fee, but registry at such commuted fee shall not be granted for more than four years in all, unless for cause shown to the satisfaction of the Registrar, in which case registry may be granted year by year for an additional number of years. Commutation on proposed discontinuance of business

(5) In the case of an application or other document or instrument to be filed, examined or deposited, the fee shall be paid before the application or other document or instrument is dealt with, and, in the case of registry or certificates of registry, the fee shall be paid before the corporation is registered. Time of payment R.S.O. 1950, c. 214, s. 156.

SCHEDULE A

(Section 162 (1))

Fees for Letters Patent of Incorporation:

For a corporation with an authorized capital stock of,

(a) \$300,000 but less than \$500,000.....	\$300
(b) \$500,000 but less than \$1,000,000.....	400
(c) \$1,000,000.....	500
(d) exceeding \$1,000,000 but less than \$2,000,000.... plus \$25 for every \$100,000 or fraction thereof in excess of \$1,000,000.	500
(e) exceeding \$2,000,000..... plus \$20 for every \$100,000 or fraction thereof in excess of \$2,000,000.	750

For supplementary letters patent..... 100

1960, c. 61, s. 7, *part.*

SCHEDULE B

(Section 162 (2))

1. Application for initial registry (s. 119).....	\$ 25
2. Extension of time not exceeding seven days, or any renewal thereof not exceeding seven days, for filing annual statement, application for renewal of registry, or any other documents or information required under the authority of this Act, except that the Registrar may grant relief from the payment of this fee in any case in which he thinks, for reasons appearing to him to be insufficient, that it should not be imposed.....	10
3. Filing power of attorney in case of corporations (s. 120)....	5
4. Filing new power or change of attorney (s. 120).....	5
5. Initial and annual renewal of registry (s. 121):	
(a) Where the assets of the corporation do not exceed \$500,000.....	\$200
(b) Where the assets of the corporation exceed \$500,000 but do not exceed \$1,000,000.....	250
(c) Where the assets of the corporation exceed \$1,000,000 but do not exceed \$5,000,000.....	300
(d) Where the assets of the corporation exceed \$5,000,000 but do not exceed \$10,000,000.....	400
(e) Where the assets of the corporation exceed \$10,000,000 but do not exceed \$20,000,000.....	450
(f) Where the assets of the corporation exceed \$20,000,000	500

For the purposes of this item, assets of a trust company shall be deemed to be the aggregate of assets held for company funds, guaranteed funds and assets held for administration under estates and trusts.

6. Interim certificate of registry or extension of certificate (s. 121)	50
7. Revivor of registry after suspension (s. 121).....	50

8. Change of corporate name (s. 122).....	\$50
9. Change of head office (s. 122).....	50
10. Filing annual statement (s. 152).....	10
11. Filing new bylaws or amendments thereto after initial registry (s. 29).....	5
12. Application for increase, decrease, conversion or alteration of capital stock or declaration or alteration of powers.....	25
(a) Order in council increasing capital stock (s. 58). A fee based on Schedule A, computed on the difference between the capital stock of the corporation before the order in council and the capital stock of the corporation after the order in council is issued, with a minimum fee of \$200.	
(b) Any other order in council (s. 58).....	200
(c) Certificate of increase, decrease, conversion or alteration of capital stock or shares (s. 58).....	10
(d) Supplementary letters patent.....	100
13. Application for increase in borrowing powers (s. 75 (2))....	25
(a) Order in council.....	200
14. Copy of decision of Registrar, per folio of 100 words.....	1
Also for certificate of Registrar.....	2
15. Certified copy of entry on register or of certificate.....	2
16. Copies of or extracts from documents filed with Registrar, per folio of 100 words.....	1
Also for certificate of Registrar.....	2
17. Examining and passing upon applications or documents (ss. 97-105).....	25
Order in council and certificate.....	200
18. Examining and passing upon applications or documents (s. 83)	25
Order in council.....	200
19. Examining and passing upon applications or documents in connection with any matter not specifically referred to in this Schedule.....	25
Order in council.....	200

1960, c. 61, s. 7, *part, amended.*

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CHAPTER 223

The Local Improvement Act

INTERPRETATION

1. In this Act,Inter-
pre-
tation

1. "Board" means the Ontario Municipal Board;
2. "bridge" includes a viaduct, culvert, subway and embankment, and a pavement on a bridge;
3. "clerk" means the clerk of the municipality and includes any officer or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by the clerk;
4. "constructing" and "construction" include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired;
5. "corporation" means the corporation of a municipality;
6. "corporation's portion of the cost" means that part or proportion of the cost of a work that is not to be specially assessed, but is payable by the corporation;
7. "council" means the council of the corporation of a municipality;
8. "county" includes a district;
9. "curbing" includes a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter;
10. "engineer" includes an officer or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by an engineer;
11. "frontage", when used in reference to a lot abutting directly on a work, means that side or limit of the lot that abuts directly on the work;

R.S.O. 1960,
c. 23

12. "judge of the county court" means the judge or a junior judge of a county or district court;
13. "lifetime", as applied or applicable to a work, means the lifetime of the work as estimated by the engineer or, in case of an appeal, as finally determined by the court of revision or the judge, as the case may be;
14. "lot" means a subdivision or a parcel of land that by *The Assessment Act* is required to be separately assessed, and "lots" means more than one lot as so defined;
15. "municipality" includes a union of townships, a municipality composed of more than one township, a township, a city, a town and a village, but not a county;
16. "owner" and "owners" means respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but do not include a person who is, or is assessed as, owner where there is a tenant for years of the land who is an owner within the meaning of this clause;
17. "owners' portion of the cost" means that part or portion of the cost of a work that is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work;
18. "pavement" includes any description of pavement or roadway;
19. "paving" includes macadamizing, planking and the laying down or construction of any description of pavement or roadway and the construction of a curbing; R.S.O. 1950, c. 215, s. 1, cls. (a-s).
20. "published" means published in a newspaper in the municipality or, if there is no newspaper published in the municipality, in a newspaper published in an adjacent or neighbouring municipality, and "publication" has a corresponding meaning; 1951, c. 48, s. 1.

21. "sewer" includes a common sewer and a drain and two or more sewers connected as a system of sewers;
22. "sidewalk" includes a footway and a street crossing;
23. "specially assessed" means specially rated for or charged with part of the cost of a work;
24. "street" includes a lane, alley, park, square, public drive and public place, or a part of any of them;
25. "value" means the assessed value, exclusive of buildings, according to the last revised assessment roll of the municipality;
26. "watermain" includes two or more watermains connected in a system of waterworks and hydrants;
27. "work" means a work or service that may be undertaken as a local improvement;
28. "work undertaken" means a work that is undertaken as a local improvement. R.S.O. 1950, c. 215, s. 1, cls. (u-zb).

WORKS THAT MAY BE UNDERTAKEN AS LOCAL
IMPROVEMENTS

2.—(1) A work of any of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation as a local improvement:

Works
that may
be under-
taken as
local im-
provements

- (a) opening, widening, extending, grading, altering the grade of, diverting or improving a street;
- (b) opening or establishing a new street;
- (c) constructing a bridge as part of a street;
- (d) constructing, enlarging or extending a sewer, including a sewer on each side or on one side only of a street;
- (e) constructing, enlarging or extending a watermain, including a main on each side or on one side only of a street;
- (f) paving a street;
- (g) constructing a curbing, gutter or sidewalk in, upon or along a street;
- (h) constructing or maintaining a boulevard where a part of a street has been set apart for the purposes of a boulevard;

- (i) sodding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street;
- (j) the extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light, including street lighting, heat or power, to the owners of land, for whose benefit the extension is provided;
- (k) in a township where works have been constructed and erected for the supply of electrical power to owners, for constructing and erecting in connection with such works such further works, plant, appliances and equipment as may be necessary for street lighting;
- (l) acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive;
- (m) constructing retaining walls, dykes, breakwaters, groynes, cribs and other shore protection works along the banks of rivers, streams or creeks or along the shores of lakes;
- (n) constructing and erecting on petition only, on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works that would otherwise be provided at the expense of the corporation at large;
- (o) constructing a roadway or subway under a railway or other roadway;
- (p) subject to section 25, for resurfacing with asphalt or other suitable material a pavement having a foundation that in the opinion of the engineer is sufficient therefor, whether or not the lifetime of the pavement has expired, and, when any work undertaken under this clause is such as might entitle it to a provincial grant, the approval of the Department of Highways shall be first obtained with respect to the suitability of the foundation;
- (q) widening a pavement on a street;
- (r) constructing a retaining wall with or without a sidewalk or pavement on a street. R.S.O. 1950, c. 215, s. 2 (1); 1957, c. 64, s. 1; 1959, c. 55, s. 1.

(2) Nothing in this section extends or applies to a work of ^{Repair and maintenance} ordinary repair or maintenance. R.S.O. 1950, c. 215, s. 2 (2).

3.—(1) Where the work is the construction of a pavement or watermain, the council, before proceeding with the work, ^{Works that may be undertaken in connection with a pavement, watermain or sewer} may construct all works necessary for surface drainage in connection therewith and may make all necessary private drain connections from the main sewer to the street line on either or both sides, and may also lay all necessary water service pipes and stop cocks and make all necessary alterations in the same, and, where gas works are owned by the corporation, the council may lay all necessary gas mains, service pipes and stop cocks and make all necessary alterations in the same, and, where the work is the construction of a sewer, the council may make all necessary private branch drains and connections to the street line on either or both sides; but the cost of a water or gas service or stop cock and any alteration of the same and the cost of a private branch drain and connection shall be specially assessed only upon the particular lot to serve which it was constructed or effected by an equal special rate per foot of the frontage of such lot.

(2) Where the work is the construction of a pavement, the council may from time to time during the progress of the work, upon the written request of the owner of the lot to be served, provide for the construction, as part of the pavement, of an approach of such width and character as the council may determine from the boundary line of the pavement to the street line, so as to form an approach to a particular lot, and the cost of such approach shall be specially assessed upon the particular lot so served. ^{Construction of approach to lot}

(3) The works mentioned in subsection 1 shall be deemed ^{To be part of work of construction} part of the work of construction of the pavement, sewer or watermain in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection.

(4) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or gas service pipe shall be the cost thereof from the centre of the street to the street line, whether or not the sewer or water or gas main is laid in the centre of the street, but this subsection does not apply to private drain connections where a sewer is constructed on each side of a street. R.S.O. 1950, c. 215, s. 3. ^{How to be assessed}

4.—(1) Where a sewer, water main or gas main has been or is hereafter constructed, the council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections, water service pipes or gas service pipes from the ^{Construction of private drain connections without petition}

sewer, water main or gas main to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection, water service pipe or gas service pipe shall be specially assessed upon the particular lot for or in connection with which it is constructed by an equal special rate per foot of the frontage of the lot, and the owners of the land do not have the right of petition provided for by section 12, and the provisions of subsection 4 of section 3 apply.

At request
of owner

(2) Where a private drain connection, gas or water service pipe has been constructed by a municipality at the request of the owner of land and the council has not proceeded under subsection 1, the amount due may be inserted in the collector's roll and be collected in the same manner as taxes. R.S.O. 1950, c. 215, s. 4.

Purchase by
township of
works
already
constructed

R.S.O. 1960,
c. 249

5. In a township, town or village in unorganized territory, where the owners of land have constructed a work that might have been undertaken as a local improvement, the council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under *The Municipal Act*, and the purchase money may be provided by the council and may be assessed in like manner as if the work were a work that the council were undertaking as a local improvement, and all the provisions of this Act apply as if the council were undertaking the work so acquired as a local improvement. R.S.O. 1950, c. 215, s. 5.

Approval of
Board
required in
the case of
certain
works

6.—(1) Where the work is the opening, widening or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed \$50,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and, if such notice is given, the work shall not be undertaken without the approval of the Board.

Approval
may be
withheld

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so, the Board may withhold its approval.

Apportion-
ment of cost
of work

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land

situate within a section or district of the municipality, the Board may make an order so declaring, and in that event the council may, notwithstanding the provisions of this Act or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order, as the case may be.

(4) The Board, instead of making an order under subsection 3, may direct that, if the work is undertaken, such part of the cost of it as the Board may deem just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act, and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and, if the council undertakes the work, it shall conform with the directions of the order.

Cost may be charged upon lots abutting

(5) The special assessment upon the lots shall not be made by the Board, but by the council, in accordance with this Act. R.S.O. 1950, c. 215, s. 6.

Special assessments by council

PROCEDURE FOR UNDERTAKING WORK

7.—(1) A by-law may be passed for undertaking a work as a local improvement,

Methods of undertaking works

(a) on petition;

(b) without petition, on the initiative of the council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause 1 of subsection 1 of section 2;

(c) on sanitary grounds, as mentioned in section 9; or

(d) without petition in the cases mentioned in sections 4 and 8.

(2) Instead of passing separate by-laws for each work, the council may pass one by-law in respect of several works. R.S.O. 1950, c. 215, s. 7.

One by-law may include several works

8.—(1) Where the council determines and, by by-law or resolution passed at any meeting by a vote of two-thirds of all the members thereof, declares it is desirable that the construction of a curbing, pavement, sidewalk, sewer, watermain or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, or the widening of a pavement, or the extension of a system of water works, or of private drain connections or water service pipes under

Local improvements with approval of Board

section 4, should be undertaken as a local improvement, the council may with the approval of the Board pass a by-law to undertake the work. R.S.O. 1950, c. 215, s. 8 (1); 1957, c. 64, s. 2.

Petition not
requisite

(2) Where the undertaking of the work is approved by the Board, no petition required by section 11 is necessary and the owners do not have the right of petition provided by section 12.

Notice of
application
to Board

(3) Where it is intended to proceed under this section, the council shall not be deemed to proceed on the initiative plan but there shall be published at least once a week for two weeks a notice of intention (Form 2) to apply to the Board for approval of the work being undertaken and any owner may within twenty-one days after the first publication of such notice file with the Board his objection to the work being undertaken.

Further
notices

(4) The Board may direct such further or other notice or notices (Form 2) or otherwise, to be given by the council, and the Board may make such order with respect to the work as may seem proper.

Work not
to proceed
until
approval
given

(5) The work shall not be undertaken until the approval of the Board to the passing of the by-law therefor has been obtained.

What notice
may
include

(6) The notice (Form 2) when published may relate to and include any number of different works. R.S.O. 1950, c. 215, s. 8 (2-6).

Construc-
tion of
sewer on
recom-
mendation
of health
authority

9. Where the council, upon the recommendation of the Minister of Health or of the local board of health of the municipality, determines and, by by-law passed at a regular or special meeting of the council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer or watermain or of private drain connections or water service pipes under section 4 as a local improvement is necessary or desirable in the public interest on sanitary grounds, the council may undertake the work without petition, and the owners of the land do not have the right of petition provided for by section 12. R.S.O. 1950, c. 215, s. 9.

Notice of
intention

10.—(1) Where it is intended to proceed under section 9, the council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention (Form 1) to be published, and such notice may relate to and include any number of different works.

(2) Where the council proceeds with any local improvement under subsection 1, a majority of the owners representing at least one-half the value of the lots that are to be specially assessed therefor, being dissatisfied with the local improvement or with the manner in which it has been undertaken, may apply by petition to the Board for relief, and the Board may thereupon investigate the complaint and make such order with respect to the local improvement as may seem proper, and, after notice to the clerk of the municipality of the application and pending its determination by the Board, the council shall not proceed with the local improvement work.

Objection
to con-
struction

(3) The sufficiency of the petition shall be determined in the manner provided by section 15.

Sufficiency
of petition

(4) The petition shall be deposited with the secretary of the Board within twenty-one days after the publication of notice of the council's intention to undertake the work.

Filing of
petition

(5) The by-law for undertaking the work shall not be passed until the expiry of such twenty-one days. R.S.O. 1950, c. 215, s. 10.

Time for
passing
by-law

11. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots liable to be specially assessed, provided that, where a petition proposes that any lot be totally exempted from special assessment under section 30, such lot and the owner thereof shall be excluded from computation in ascertaining whether the petition is sufficiently signed. R.S.O. 1950, c. 215, s. 11.

Number of
signatures
to petition
required

12.—(1) Where the council proceeds on the initiative plan, notice of the intention of the council to undertake the work (Form 3) shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed, and, unless within one month after the first publication of the notice a majority of the owners, representing at least one-half of the value of the lots that are liable to be specially assessed, petition the council not to proceed with it, the work may be undertaken as a local improvement.

Notice of
intention
under
initiative
plan

(2) The notice is sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which, the work is to be done, and the number of the instalments by which the special assessment is to be payable.

Contents
of notice

(3) The notice may relate to and include any number of different works. R.S.O. 1950, c. 215, s. 12 (1-3).

May cover
different
works

Manner of
service

(4) The notice may be served upon the owner,

- (a) personally; or
- (b) by leaving it at his place of business or of residence, if within the municipality; or
- (c) by mailing it addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality; or
- (d) if the place of business and of residence of the owner are not known, by leaving it with a grown-up person on the lot of the owner that is liable to be specially assessed, if there is a grown-up person residing thereon. R.S.O. 1950, c. 215, s. 12 (4); 1959, c. 55, s. 2.

Where
residence,
etc.,
unknown

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner that is liable to be specially assessed, service upon the owner is not requisite.

Proof of
publication
and service

(6) Publication and service of the notice may be proved by affidavit or statutory declaration which, before the passing of the by-law by which the special assessment is made to defray the cost of the work, is *prima facie* evidence and, after the passing of the by-law, is conclusive evidence of the matters set forth therein. R.S.O. 1950, c. 215, s. 12 (5, 6).

Effect of
petition
against
work

13.—(1) Where the council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under section 12, the council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition; provided that, in a municipality in which a by-law passed under section 69 is in force, the prohibition contained in this section does not prevent the council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Powers
conferred by
section 8
not affected

(2) Nothing in this section prevents the council from exercising the power conferred by section 8. R.S.O. 1950, c. 215, s. 13.

Lot of
petitioner
to be
described

14. There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to identify it. R.S.O. 1950, c. 215, s. 14.

15.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced is final and conclusive. Clerk to determine sufficiency of petition

(2) Where the sufficiency of a petition has been determined by the clerk, it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the court of revision or by the judge in the lots to be specially assessed that have the effect of increasing or reducing the number of the lots. What owners to be counted

(3) When it is necessary to determine the value of any lot and the value cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of the lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination is final and conclusive. Determining value of lots

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and, if the person who appears by the assessment roll to be the owner is a petitioner, his name shall be disregarded in determining the sufficiency of the petition. Owner whose name is not on roll may petition

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition, Case of joint owners

(a) they shall be reckoned as one owner only;

(b) they shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

(6) The clerk, for the purpose of any inquiry pending before him under this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the county court of the county in which the municipality lies. Witnesses

(7) A witness, if a resident of the municipality, is bound to attend without payment of any fees or conduct money and, if not a resident of the municipality, is entitled to fees and conduct money according to the county court scale. Witness fees

Complaints
to be
investigated
by county
judge

(8) Where any person complains to the clerk that his signature to the petition was obtained by fraud, misrepresentation or duress, the complaint shall be investigated and determined by a judge of the county court, and the clerk shall delay certifying until he has received the finding or report of the judge upon the complaint, and in determining as to the sufficiency of the petition the clerk shall give effect to such finding or report. R.S.O. 1950, c. 215, s. 15.

Petitions to
be lodged
with clerk

16. A petition for or against the undertaking of a work shall be lodged with the clerk and shall be deemed to be presented to the council when it is so lodged. R.S.O. 1950, c. 215, s. 16.

Withdrawal
of name
from
petition

17. No person has the right to withdraw his name from, and no name shall be added to, a petition after the clerk has certified as to its sufficiency. R.S.O. 1950, c. 215, s. 17.

Power to
undertake
part of
work only

18. Where a by-law has been heretofore or is hereafter passed for undertaking any work as a local improvement and the council deems it inadvisable or impracticable to complete the work, the council may, by by-law, amend such by-law and provide for the carrying out of part only of the work mentioned therein or for the substitution in whole or in part of another kind or character of work of the same class as that undertaken in such by-law, but all the provisions of this Act apply to such partial work as if it had been originally undertaken as one entire work or to such substituted work as if it had been the work originally undertaken, but the amending by-law takes effect only on being approved by the Board. R.S.O. 1950, c. 215, s. 18.

Amend-
ments to
by-laws
respecting
highways

19. After passing a by-law for establishing, extending, widening or diverting a highway, and before completion of the work, the council may apply to the Board for leave to pass an amending by-law providing for a deviation in the course or location of the highway as defined in the original by-law, and the Board may make an order approving of and validating an amending by-law accordingly on such terms and conditions and after such hearing as it may consider proper, and subject to the terms of the order the provisions of this Act apply to such altered work as if it had been provided for in the original by-law. R.S.O. 1950, c. 215, s. 19.

HOW COST OF WORK TO BE BORNE

Frontage
rate

20.—(1) Except as otherwise expressly provided in this Act, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according

to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

(2) The following may be included in the cost of the work: Items that may be included in cost

- (a) engineering expenses;
- (b) cost of advertising and service of notices;
- (c) interest on temporary loans;
- (d) compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the corporation in connection with determining such compensation;
- (e) the estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them.

(3) Where the work is the widening of a pavement on a street, the lots on each side of the street shall be deemed to abut directly on the work. Case of widening pavement R.S.O. 1950, c. 215, s. 20.

(4) Where the work is the constructing, enlarging or extending of a sewer or watermain, including a sewer or watermain on each side or one side only of a street, the council may make a reduction in the special assessment of corner lots that would otherwise be chargeable thereon by deducting from the total frontage of a corner lot liable to special assessment the number of feet abutting on the work on the side of the lot. Construction of sewer or watermain 1959, c. 55, s. 3.

21.—(1) Where a municipality receives a contribution in cash to be applied towards the cost of any work, the amount of the contribution shall be deducted from the total cost of the work and the balance shall for all purposes be deemed the actual cost of the work. Deduction of contributions from cost

(2) If the contribution is by way of an annuity, it shall be capitalized and the capitalized value shall be deducted as aforesaid, but the municipality shall nevertheless borrow the full amount of the cost of the work and shall specially assess against the owners of lots their share of the cost ascertained after making the deduction as aforesaid, and the balance of the total cost shall be the corporation's portion of the cost, and the annuity shall be applied in reduction of the annual rate levied to meet the corporation's portion of the cost. Contribution by way of annuity how treated R.S.O. 1950, c. 215, s. 21.

(3) Notwithstanding subsections 1 and 2, where a contribution is to be applied towards any excess cost of a work caused by reason of the work being constructed with a greater capacity than is required for the purposes of the lots abutting on Contributions for excess cost of work

the work, the amount of the contribution shall be applied to reduce the corporation's portion of the cost. 1957, c. 64, s. 3.

**Guarantee
of work**

22.—(1) Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required.

**Assessment
of allowance
to make
good imper-
fections**

(2) In all municipalities, where such guarantee is required, where any local improvement is undertaken by the corporation and constructed by day labour, the corporation may assess as part of the cost thereof a reasonable allowance to make good any imperfection therein due to materials, workmanship or construction during the lifetime thereof as fixed by the court of revision, the amount of such allowance to be subject to revision by the court of revision. R.S.O. 1950, c. 215, s. 22.

**Corpora-
tion's
portion of
cost**

23. There shall be included in the corporation's portion of the cost,

- (a) at least one-third of the cost of a sewer having a sectional area of more than four feet; and
- (b) the entire cost of all hydrants constructed in connection with a watermain and the entire cost of all culverts, catch basins and other works that are provided for surface drainage and that are incidental to the construction of the sewer or pavement; and
- (c) so much of the cost of a work as is incurred at street intersections. R.S.O. 1950, c. 215, s. 23.

**Apportion-
ment of cost
of sewers**

24.—(1) Where the work is the construction of a sewer or watermain, the council may in the by-law for undertaking the work, passed by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that remainder of the cost of such sewer or watermain shall be borne by the corporation.

**Part to be
borne by
corporation**

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 23, is to be included in the corporation's portion of the cost. R.S.O. 1950, c. 215, s. 24.

25. Where the work undertaken is the resurfacing of a pavement as provided by clause *p* of subsection 1 of section 2, the corporation shall assume and pay the special assessments therefor charged against the lots fronting or abutting on the work until the expiration of the period within which such lots are specially assessed for the then existing pavement. R.S.O. 1950, c. 215, s. 25.

Assumption
by corpora-
tion of
special
assessments
in certain
cases

26. Where the work to be undertaken is the widening of a pavement on a street without a petition, the by-law for undertaking the work shall provide that, in addition to the corporation's portion of the cost including the portions otherwise provided for in this Act, there shall also be included in such portion so much of the cost of the work as is incurred in the construction or reconstruction of the pavement to a width greater than the width of the pavement then existing on the street. R.S.O. 1950, c. 215, s. 26 (1); 1957, c. 64, s. 4 (1).

Widening
costs in
certain
cases

27.—(1) Subject to subsection 3, the council of the corporation of a municipality in which there is not in force a by-law passed under section 69 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as to the council seems proper of the cost of every granolithic, stone, cement, asphalt or brick sidewalk, or of every pavement or curbing or of works, plant, appliances and equipment for street lighting constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation.

Corpora-
tion may
assume part
of cost of
sidewalk or
pavement

(2) Such by-law shall not be repealed except by vote of three-fourths of all the members of the council.

Repeal of
by-law

(3) The council, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council and approved by the Board, may provide that the corporation shall assume a larger share of the cost of a certain named work undertaken on a certain named street than is provided in the by-law passed under subsection 1, with reference to works of the same class, or, where no by-law has been passed under subsection 1, that the corporation shall assume a stated part of the owner's portion of the cost of any certain named work of any one of the classes set out in subsection 1. R.S.O. 1950, c. 215, s. 27.

Assumption
of larger
share of
certain
named work

28.—(1) In the case of corner lots and triangular or irregularly-shaped lots situate at the junction or intersection of streets, a reduction shall be made in the special assessment that otherwise would be chargeable thereon, sufficient, having regard to the situation, value and superficial area of such lots

Reduction of
assessment,
of corner
lots, etc.

as compared with the other lots, to adjust the assessment on a fair and equitable basis.

of lots
unfit for
building
purposes

(2) Where a lot is for any reason wholly or in part unfit for building purposes, a reduction shall also be made in the special assessment that otherwise would be chargeable thereon sufficient to adjust its assessment as compared with that of the lots fit for building purposes on a fair and equitable basis.

of lots
with two
limits
abutting
on works

(3) Subject to section 30, where a lot, other than a corner lot, has two limits that abut on works and the size or nature of the lot is such that any or all of the works are not required, a reduction in respect of the works that are not required, so long as they are not required, shall also be made in the special assessment that would otherwise be chargeable thereon, sufficient to adjust its assessment on a fair and equitable basis.

How
reduction
to be made

(4) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced.

Reduction
to be
borne by
corporation

(5) The amount of any reduction made in the assessment of any lot under the provisions of this section is not chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. R.S.O. 1950, s. 215, s. 28.

Special
assessment
on flankage
that
becomes
frontage

29.—(1) Where a local improvement is carried out and an exemption is made of flankage of a lot which flankage later becomes a frontage on the work that has been carried out, the corporation may impose a special assessment of such amount as would have been assessed against such flankage had it been frontage at the time of the passing of the by-law.

Notice of
assessment

(2) Notice of such assessment shall be given by registered mail addressed to the then registered owner of such flankage.

Appeal

(3) Any person complaining that the amount of flankage in respect of which the assessment is imposed is incorrect may do so in writing delivered to the clerk of the municipality within ten days of the mailing of the notice under subsection 2, and the clerk of the municipality shall forthwith transmit the same to the court of revision and give to the complainant written notice of the time and place of the hearing of the complaint posted six days prior to the date set therefor, and the court of revision shall consider the complaint and its decision thereon is final and binding.

When due
and payable

(4) Where such assessment is so imposed, it is due and payable in equal annual instalments commencing the year when

the flankage becomes the frontage on the work, and for such term of years as charges were imposed by the by-law.

(5) The annual assessments imposed or collected under this section shall be limited to those that would fall due during the period of the currency of the debentures issued for such work and five years thereafter and, when collected, shall be credited to the general funds of the corporation. 1959, c. 55, s. 4.

Period in
which
charges
payable

30.—(1) Where the work is the opening, widening, extension, grading or paving of a lane or the construction of a sewer for drainage purposes in a lane, and the council is of opinion that any lot abutting on the work is not benefited by the work, or is not benefited thereby to the same extent as other abutting lots, the council may, in the by-law for undertaking the work, exempt such lot or make a reduction in the special assessment that would otherwise be chargeable thereon by deducting from the total frontage of the lot liable to special assessment so much thereof as is sufficient to make the proper reduction. R.S.O. 1950, c. 215, s. 29 (1); 1959, c. 55, s. 5.

Assessment
for opening
lane

(2) Where such lot is exempted, the amount of the special assessment that would otherwise be chargeable thereon shall be specially assessed against all the other abutting lots and, where a reduction is made, the entire cost of the work shall be specially assessed as if it were the cost with respect to the reduced frontage, but the whole of the lot granted the reduction shall be charged with the special assessment as so reduced. R.S.O. 1950, c. 215, s. 29 (2).

Assessment
of cost of
work in
such case

(3) None of the works mentioned in subsection 1 shall be proceeded with until the by-law for undertaking the work is approved by the Board. R.S.O. 1950, c. 215, s. 29 (3); 1957, c. 64, s. 5.

Board's
approval

31.—(1) Subject to subsection 2, where the work undertaken is a sidewalk or curbing or a sewer or watermain constructed on one side of a street to serve only the lots on that side, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed. R.S.O. 1950, c. 215, s. 30 (1).

Assessment
of cost of
certain
works

(2) On petition, sufficiently signed, of the owners on both sides of a street praying that a sidewalk be constructed on one side only of the street and that a certain portion not exceeding one-third of the owner's share of the cost be assessed on the lots fronting or abutting on the other side of the street, the council may specially assess the lands on the other side of the street in conformity with the petition and, if a sidewalk is thereafter constructed on the other side of the street, the owner's portion of the cost shall be specially assessed in like manner. R.S.O. 1950, c. 215, s. 30 (2); 1957, c. 64, s. 6.

Assessment
of cost of
sidewalks
on petition

Apportion-
ment of
cost of a
bridge,
the opening
of a street,
etc.

32.—(1) Where the work is the acquisition, establishment, laying out and improving of a park or square or the construction of a bridge or the construction of a sewer or watermain of a larger capacity than is required for the purpose of the abutting land, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the construction of any work mentioned in clause *m* or *r* of subsection 1 of section 2, and the council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the council may, in the by-law for undertaking the work passed by the vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost as to the council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefited by the work. R.S.O. 1950, c. 215, s. 31 (1); 1957, c. 64, s. 7.

Method of
assessment

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 20, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 37 and 38. R.S.O. 1950, c. 215, s. 31 (2).

Assessment
of right of
way of
railway, etc.

33. Where the land abutting directly on any work undertaken as a local improvement is a right of way for a railway or for the transmission of electrical power, the council may exercise the powers conferred by subsection 1 of section 32 with respect to that part of the cost that would otherwise be specially assessed against such right of way. R.S.O. 1950, c. 215, s. 32.

Assessment
of cost of
outlet for
sewage

34. Where the work is the construction of a sewer and it is necessary to construct an outlet for the sewage, and the lands fronting or abutting on or through which the outlet is constructed are not benefited or served thereby, the cost of the outlet shall be deemed to be a part of the cost of the sewer and shall not be specially assessed against the lands fronting or abutting on the outlet or through which the outlet is constructed. R.S.O. 1950, c. 215, s. 33.

Assessment
of cost of
outlet or
pumping
works

35. Where the work is the construction of a sewer that is an outlet for sewage from lands not abutting directly upon the work or is the installation and construction of sewage pumping works, force mains, siphons and other pumping facilities necessary for a sewer or sewer system in carrying

away sewage from lands not abutting directly upon the works, the council may, in the by-law for undertaking the work passed by a vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost of the work as to the council may seem just, and that the residue thereof shall be specially assessed on the lands not abutting on the work but immediately benefited thereby in the manner provided by sections 37 and 38. R.S.O. 1950, c. 215, s. 34.

36.—(1) Where the work of acquiring, establishing, opening, widening, extending or diverting a street involves the taking of a portion of a lot abutting on the work, or of one or more of a number of lots or contiguous lots owned by the same person, the council may agree with the owner that, in consideration of the dedication or gift of the land required to be taken or a release of or reduction in the owner's claim for compensation, the remainder of his lot or his remaining lots, as the case may be, shall be charged with no part or a specified portion or proportion only of the special assessment that would otherwise be chargeable thereon in respect of the cost of the work, and the special assessment roll shall be prepared in conformity with such agreement notwithstanding anything to the contrary in this Act. Compensation by reducing assessment

(2) An appeal lies to the court of revision and to the county judge from the action of the council in like manner as an appeal lies under the provisions of this Act with regard to the cost of a work undertaken. R.S.O. 1950, c. 215, s. 35. Appeal

37. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. R.S.O. 1950, c. 215, s. 36. Assessment of non-abutting land equally benefited

38. Where land not abutting directly upon a work is to be specially assessed, and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit so that a district or section shall embrace all the land that will be benefited in the same proportion, and its proper proportion of the cost shall be assigned to each district or section, and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. R.S.O. 1950, c. 215, s. 37. Assessment of non-abutting land unequally benefited

Special
assessment
of land
assessed in
block that
becomes
subdivided

39.—(1) Where a by-law has been passed providing for the undertaking of a work and lands that are assessed in one block and are or are to be specially assessed become subdivided, the council of the corporation with the approval of the Board may,

- (a) amend the by-law for undertaking the work to define such lands so assessed in one block as an area; and
- (b) provide that the special assessments that would have been assessed against such lands, including all or part of any assessments that would otherwise become part of the corporation's share by reason of any new street provided for in such subdivision,
 - (i) shall be assessed and levied on the rateable property in the area, or
 - (ii) shall be assessed and levied in whole or in part upon the new lots fronting or abutting on the work and that the balance, if any, shall be assessed and levied on the rateable property in the area.

Amendment
of special
assessment
roll

(2) Where a by-law is amended under subsection 1, the special assessment roll with respect to such area shall be amended by entering in accordance with section 41 every lot in the area to be specially assessed under this section.

Holding
court of
revision

(3) Section 43 applies *mutatis mutandis* to the special assessments made under this section. 1959, c. 55, s. 6.

PROCEDURE FOR MAKING SPECIAL ASSESSMENT

Where all
of owners'
portion
assessed on
abutting
land

40.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the council shall cause to be made,

- (a) a report as to the lifetime of the work;
- (b) a report as to the reductions, if any, which ought to be made under section 28 in respect of any lot and the aggregate amount of such reductions;
- (c) an estimate of the cost of the work;
- (d) a statement of the share or proportion of the cost that should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) a report as to the number of instalments by which the special assessment should be made payable.

(2) In the case of a work, part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports and estimate mentioned in subsection 1, the council shall cause a further report to be made, stating,

Non-abutting land

- (a) whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work; and
- (b) if inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it.

(3) Where the work is the widening of a pavement that has been constructed as a local improvement and the lifetime of which has not expired, the unexpired portion of the lifetime of the pavement so constructed shall be the lifetime of the work. R.S.O. 1950, c. 215, s. 38.

Lifetime of work of widening pavement

41. Before a special assessment is imposed, the council shall cause a special assessment roll to be made, in which shall be entered,

Special assessment roll

- (a) every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) every lot that, but for section 62, would be exempt from the special assessment and the number of feet of its frontage;
- (c) the rate per foot with which each lot is to be so assessed;
- (d) the number of instalments by which the special assessment is to be payable. R.S.O. 1950, c. 215, s. 39.

42. The council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in sections 40 and 41 in such manner and by such officer of the corporation or person as the council may deem proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. R.S.O. 1950, c. 215, s. 40.

How reports, statements, etc., to be made

Holding
of court of
revision

43.—(1) Before a special assessment is imposed, a sittings of the court of revision for the hearing of complaints against the proposed special assessment shall be held.

Time and
place

(2) Ten days notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice (Form 4) shall be mailed to the owner of every lot that is to be specially assessed. R.S.O. 1950, c. 215, s. 41.

Roll to be
kept open
for 10 days

44. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the court of revision. R.S.O. 1950, c. 215, s. 42.

Statement
of cost of
work for
court of
revision

45. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the clerk, assessment commissioner, treasurer or deputy or assistant treasurer of the municipality, shall be delivered to the chairman of the court of revision before the meeting of the court. R.S.O. 1950, c. 215, s. 43.

Estimate of
cost of
unfinished
work and
unsettled
claims

46.—(1) In ascertaining the actual cost of the work under section 45 where, in the opinion of the engineer and assessment commissioner or treasurer, the cost of any unfinished portion of the work and any unsettled claims for lands taken for or injuriously affected by the work will not exceed in amount 25 per cent of the total estimated cost of the work, the engineer and assessment commissioner or treasurer may estimate the cost of such unfinished work, and the amount of all such claims, and the amount may be included in the actual cost to be ascertained and certified under section 45, and shall be deemed to be the correct amount thereof subject to any order made with reference thereto by the court of revision.

Where
estimate
deficient

(2) If the cost of such unfinished work and unsettled claims exceeds the amount so estimated by the engineer and assessment commissioner or treasurer, the excess over the estimated amount shall be borne by the corporation.

Where
estimate
excessive

(3) If the cost of such unfinished work and unsettled claims is less than the estimated cost, the balance remaining in the hands of the municipality shall be applied *pro tanto* to payment of the rates to be levied under the by-law. R.S.O. 1950, c. 215, s. 44.

Powers of
court

47.—(1) The court of revision has jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters:

- (a) where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work,
- (i) the names of the owners of the lots,
 - (ii) the frontage or other measurements of the lots,
 - (iii) the amount of the reduction to be made under section 28 in respect of any lot,
 - (iv) the lots which, but for section 62, would be exempt from special assessment,
 - (v) the lifetime of the work,
 - (vi) the rate per foot with which any lot is to be specially assessed, and
 - (vii) the exemption or amount of reduction to be made under section 30 in respect of any lot;
- (b) where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in clause *a*, as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear;
- (c) in all cases as to the actual cost of the work. R.S.O. 1950, c. 215, s. 45 (1); 1957, c. 64, s. 8.

(2) The court of revision does not have jurisdiction or authority to review or to alter the proportions of the cost of the work that the lands to be specially assessed and the corporation are respectively to bear according to the provisions of the by-law for undertaking the work. R.S.O. 1950, c. 215, s. 45 (2). No power to alter proportions of cost

48. Notwithstanding subsection 2 of section 47, the court of revision at any time after the certification of the special assessment roll may reduce any special assessment for the current year and the remaining years of the debenture debt by reason of any gross or manifest error and the amount by which any owner's share of the cost of a work is reduced shall be added to the corporation's share of the cost. 1958, c. 54, s. 1. Power to reduce special assessment where gross error

49.—(1) Where it appears to the court of revision that any lot that has not been specially assessed should be specially assessed, before finally determining the matter, the court shall adjourn its sittings to a future day and shall cause notice (Form 4) to be given to the owner of the lot of the time and place when the adjourned sittings will be held. Omission to assess certain lots

Time for
mailing
notice

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

Power to
fix special
assessment
of lots

(3) If the court of revision determines that any such lot ought to be specially assessed, the court has jurisdiction and power to fix and determine the amount of the special assessment thereon. R.S.O. 1950, c. 215, s. 46.

When
special
assessment
roll to be
final

50. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the court of revision, and the roll when so corrected shall be certified by the clerk, and, when so certified, except in so far as it may be further amended on appeal to the judge, the assessment roll and the special assessment are valid and binding upon all persons concerned and upon the land specially assessed, and the work in respect of which the special assessment roll has been made and certified shall be conclusively deemed to have been lawfully undertaken and proceeded with pursuant to and in accordance with this Act. R.S.O. 1950, c. 215, s. 47.

Appeal to
county
judge

51.—(1) The council or the owner of a lot specially assessed may appeal to the judge of the county court from any decision of the court of revision.

Application
of
R.S.O. 1960,
c. 23

(2) The provisions of *The Assessment Act* as to appeals to the judge apply to an appeal under subsection 1.

Powers
of judge

(3) The judge has the like jurisdiction and powers as are conferred on the court of revision by section 47, and the provisions of section 49 apply where it appears to the judge that any lot not specially assessed ought to be so assessed. R.S.O. 1950, c. 215, s. 48.

Further
appeal

(4) Any further appeal lies from the decision of the judge to the Board or the Court of Appeal in the same manner as an appeal from a decision of a county judge under *The Assessment Act*, and the provisions of that Act with respect to an appeal from a county judge apply *mutatis mutandis*. 1957, c. 64, s. 9.

BORROWING POWERS

Temporary
loans

52.—(1) The council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it.

Issue of
debentures

(2) The council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to repay such advances and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, no sewer in the system shall for the purposes of subsections 1 and 2 be deemed to be completed until all the sewers in the system are completed, and there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time. When sewage works deemed to be completed

(4) The provisions of *The Municipal Act* as to by-laws for creating debts apply to by-laws passed under subsection 2, except that it is not necessary, Application of R.S.O. 1960, c. 249

(a) that the by-law be submitted to or receive the assent of the electors;

(b) that any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it,

and except that the debentures, save as provided by section 55, shall be payable within the lifetime of the work.

(5) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose. Special fund for payment of debentures

(6) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represents the owners' portion of the cost, the council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this does not relieve the land specially assessed from the special rate thereon. General rate to meet deficiency in special rate

(7) The amount borrowed under subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of the provisions of *The Municipal Act* limiting the borrowing powers of the municipality. Owners' portion not to be deemed part of debenture debt of corporation

(8) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken, the council may include the same in the estimates of the year. Corporation's portion may be included in yearly estimates R.S.O. 1950, c. 215, s. 49 (1-8).

Disposal of
excess sums

R.S.O. 1960,
c. 249

Application
of subs. 9

Consolida-
tion of
by-laws

Recitals

Rates not to
be imposed
by consoli-
dating
by-law

Consoli-
dating by-
law may
authorize
debentures
of different
terms of
years

One by-law
for several
works

Term of
annual
instalments
of special
assessment

(9) When the amount realized from the debentures exceeds the amount of the cost of the work, the excess sum shall be applied in the manner provided in subsection 2 of section 303 of *The Municipal Act*, unless all the rates have been levied under the by-law, in which case the excess sum shall be paid *pro tanto* to the owners, at the time such payment is made, of the land on which the rates were levied. 1951, c. 48, s. 2.

(10) Subsection 9 does not apply to a by-law passed prior to the 1st day of January, 1941. R.S.O. 1950, c. 215, s. 49 (10).

53.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 52 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

(3) It is not necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose. R.S.O. 1950, c. 215, s. 50 (1-3).

(4) A consolidating by-law passed under subsection 1 may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums that would have been raised under the separate by-laws had no consolidating by-law been passed. R.S.O. 1950, c. 215, s. 50 (4); 1959, c. 55, s. 7.

54. Instead of passing a by-law under section 52 in respect of each individual work, a council may pass one by-law in respect of several local improvement works giving in such by-law in respect of each work substantially the same information as would be given in several by-laws respecting such works, and may provide in such by-law for borrowing the aggregate cost of the several works and for issuing one series of debentures therefor. R.S.O. 1950, c. 215, s. 51.

55.—(1) The council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the council

shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause 1 of subsection 1 of section 2, in which case the annual instalments may extend over a period of not more than forty years.

(2) In fixing the amount of the annual instalments, a sum ^{Interest} sufficient to cover the interest shall be added.

(3) The council may also, either by general by-law or by a by-law applicable to the particular work, prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates ^{Commutation of special rates} imposed thereon. R.S.O. 1950, c. 215, s. 52.

56. Any special or general rate imposed by a by-law providing for the issue of debentures to pay for the cost or part of the cost of a work undertaken under this Act may be levied by the council as soon as the by-law is passed but not later than during the year next following the year in which such work is completed, and no such rate heretofore or hereafter levied shall be held to be illegal by reason of the debentures in respect of which the rate is levied, or any of same, not having been issued at the time of levying the rate. R.S.O. 1950, c. 215, s. 53; 1953, c. 60, s. 1. ^{Time special or general rate may be levied}

57. The provisions of *The Assessment Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply to the special assessments and the special rates imposed for the payment of them. R.S.O. 1950, c. 215, s. 54. ^{Application of R.S.O. 1960, c. 23}

58.—(1) If the special assessment in respect of it has become confirmed under section 50, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall, on such terms and conditions as to costs and otherwise as may be deemed proper, direct the council to amend or to repeal the by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it is the duty of the council to pass such by-law or by-laws accordingly. ^{Where by-law quashed court may direct passing of new by law}

(2) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law is as effectual and as binding as if the amending or new by-law directed to be passed had been passed and was in force at the time the liability or obligation was incurred or the debenture was issued. ^{Liabilities incurred to be binding}

Where
council of its
own motion
directs
passing of
new by-law

(3) Although no proceeding has been taken to quash, set aside or declare invalid the by-law, the council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the by-law shall pass such amending or new by-law as may be necessary to make effectual and binding the liability so incurred and any debenture issued under the authority of such by-law, and the provisions of subsection 2 as to the effect of an amending or new by-law apply to any by-law so passed. R.S.O. 1950, c. 215, s. 55.

REPAIR OF WORK

Repair,
maintenance
and replace-
ment of
works

59.—(1) When a work has been completed, it shall be kept in repair and maintained and may be renewed or replaced at the expense of the corporation and the corporation may by by-law provide for the issue of debentures for such renewal or replacement.

General
duty to
repair not
affected
R.S.O. 1960,
c. 249

(2) Nothing in this Act relieves the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under *The Municipal Act*, or otherwise, or impair or prejudicially affect the rights of any person who is damaged by reason of the failure of the corporation to discharge such duty or obligation. R.S.O. 1950, c. 215, s. 56.

Compelling
corporation
to repair

60.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so, does not put the work in repair, a judge of the Supreme Court, or the judge of the county court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair.

Determina-
tion as to
necessary
repairs

(2) The judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper.

Remunera-
tion of
person
supervising

(3) Where a person under whose supervision the repairs are to be made is appointed, the judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

Effect of
order

(4) The order has the same effect and may be enforced in like manner as a peremptory mandamus.

(5) If the corporation does not comply with the order of the judge, in addition to any other remedy to which the applicant for the order may be entitled, the judge may authorize the repairs to be made by the applicant and, if made by him, the cost thereof shall be ascertained and determined by the judge, and, when so ascertained and determined, payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

When repairs may be made by applicant and payment therefor

(6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1950, c. 215, s. 57.

Appeal

ASSESSMENT OF LAND EXEMPT FROM TAXATION

61. Land on which a church or place of worship is erected or which is used in connection therewith, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, except schools maintained in whole or in part by a legislative grant or a school tax, are liable to be specially assessed for local improvements, notwithstanding the provisions of *The Assessment Act*. R.S.O. 1950, c. 215, s. 58.

Certain lands exempt from taxation liable to be specially assessed

R.S.O. 1960, c. 23

62. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes, except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon that fall due while such land remains exempt are not collectable from the owner thereof, but shall be paid by the corporation. R.S.O. 1950, c. 215, s. 59.

Land exempt from taxation for local improvements to be specially assessed

STREET CLEANING, ETC.

63.—(1) The council may by by-law provide that there-after the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or any one or more of such services, shall be specially assessed upon the land abutting directly on the street according to the frontage thereof, and the foregoing provisions of this Act do not apply to such services. R.S.O. 1950, c. 215, s. 60 (1).

Cleaning, watering, lighting, streets, etc.

(2) As to any of the services mentioned in subsection 1, the by-law may provide that a part of the annual cost may be assessed upon the lands abutting directly on the street and that the remainder of such cost shall be assumed by the corporation at large. R.S.O. 1950, c. 215, s. 60 (2); 1951, c. 48, s. 3.

Street lighting, apportionment of cost

Application
to defined
areas

(3) Instead of naming the particular street or streets, the by-law may apply to all the streets in a defined section or sections of the municipality.

Special rate

(4) Where the council so provides, the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration
of by-law

(5) The by-law remains in force from year to year until repealed. R.S.O. 1950, c. 215, s. 60 (3-5).

Power to
construct
works on
boundary
lines

64.—(1) Where a highway forms the boundary between two or more municipalities, although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree,

- (a) to undertake in respect of the highway or any part of it any work or service that may be undertaken as a local improvement under this Act;
- (b) as to the council by which the work or service shall be undertaken;
- (c) as to whether the corporation's portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year;
- (d) as to the proportions in which the corporation's portion of the cost shall be borne by such corporations respectively.

Powers and
duties of
initiating
council

(2) The council of the municipality that according to the agreement is to undertake the work or service, hereinafter called the initiating council, has all the powers and shall perform all the duties in respect of it that may be exercised or are to be performed by the council of a municipality that undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council.

Certified
copies of
by-law to be
sent to
clerks of
other mun-
icipalities

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates to defray the owners' portion of the cost, deliver or transmit by registered mail to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Collection
of rates in
other mun-
icipalities

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality, other than that by the council of which the by-law is passed, shall be

collected by the council of such municipality in like manner as if such rates had been imposed by that council.

(5) The corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to the last-mentioned corporation the sums that are to be levied and collected in that year under subsection 4, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment
over to
initiating
council

(6) Such payment does not relieve any land specially assessed from the special rate thereon, but it remains liable for the special rate until it is paid.

Payment
not to
relieve land
assessed

(7) Where the agreement provides that the corporation's portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporation's portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation that is to pay it.

Payment
over where
corporation's
portion
included in
estimates

(8) Where the agreement provides that the amount required to defray the corporation's portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall, in each year during the currency of the debentures issued for the money borrowed, pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporation's portion of the cost, and the amount that the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Where
corpora-
tion's
portion met
by issue of
debentures

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them. R.S.O. 1950, c. 215, s. 61.

Maintenance
and repair

65.—(1) Where a ravine separates the lands of adjoining municipalities and it is deemed desirable to construct a bridge connecting the lands of the municipalities, the council of either municipality may pass a by-law for undertaking the work of constructing the bridge or of constructing the bridge combined with any other work that may be undertaken as a local improvement, and the provisions of this Act apply except that, subject to subsections 2 and 3, no part of the cost of the work shall be assessed upon lands in the other municipality.

Construction
of bridge
over ravine
separating
municipal-
ities

Agreement
with other
municipality
as to pro-
portion of
cost to be
borne by it

(2) Where lands that will be benefited by the work lie within the limits of any municipality other than the initiating municipality, the council of the initiating municipality may agree with the council of the other municipality as to the proportion of the cost of the work to be borne by the corporation of the municipality and the lands within it, and such last-mentioned council may pass a by-law for the issue of debentures for the amount of such proportion, payable within such period not exceeding twenty years as the council may determine, and it is not necessary that the by-law be submitted to the vote of the electors.

Powers of
other muni-
cipality to
specially
assess land

(3) The council of such other municipality may proceed under this Act for the purpose of assessing the lands within it, that will be benefited by the work, their proper proportion of the amount that it has agreed to contribute to the cost of the work in the same way as if the work had been undertaken by such council and the amount to be so contributed were the cost of the work, and the proceedings shall be in accordance with the provisions of this Act. R.S.O. 1950, c. 215, s. 62.

SPECIAL PROVISIONS AS TO TOWNSHIPS, TOWNS, VILLAGES, ETC

Additional
works in
townships
and villages

66. In addition to the works authorized to be undertaken in section 2, the council of a township or village may undertake as a local improvement the construction, renewal or replacement of water works, the laying of mains and other appliances to connect with any existing system of water works, whether owned by the corporation or any other person, the construction of sewage treatment works, or the construction of such works, plant, appliances and equipment as may be necessary for street lighting. R.S.O. 1950, c. 215, s. 63.

Assessment
of cost of
works in
areas

67.—(1) The council of a township, town or village may, in the by-law for undertaking any work as a local improvement, define an area in the township, town or village and provide that the cost of the work including debenture charges and the cost of maintenance and management of the work including the cost of the utility supplied shall be assessed and levied on the rateable property in the area. R.S.O. 1950, c. 215, s. 64 (1); 1959, c. 55, s. 8.

Assessment
of cost of
certain
works

(2) Where the work is the construction of a watermain, sewer, sidewalk, curb, pavement or street lighting, the by-law may provide that the whole or a part of the cost of the work shall be assessed upon the lots fronting or abutting on the work and in such case the balance of the cost including debenture charges, if any, and the cost of maintenance and management including the cost of the utility supplied shall be assessed and levied on the rateable property in the area.

(3) The corporation may by by-law provide for the issue of debentures for any work undertaken under this section. Debentures

(4) Where a local improvement area is defined under this section and the by-law provides that the cost of the work shall be assessed and levied on the rateable property in the area, it is not necessary to serve notice of intention to construct the work upon the owners of lots in the area. R.S.O. 1950, c. 215, s. 64 (2-4). Notice of intention unnecessary

68. Where a local improvement area is defined under section 67, the area may by by-law, subject to the approval of the Board, be enlarged, reduced, altered, dissolved or amalgamated with any other such area and in such case the Board shall make any necessary adjustments of the assets and liabilities of the areas affected. R.S.O. 1950, c. 215, s. 65. Alteration, etc., of areas

ADOPTION OF LOCAL IMPROVEMENT SYSTEM

69.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with *The Municipal Act*, may provide that all works that may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise. Adoption of local improvement system R.S.O. 1960, c. 249

(2) The by-law may be repealed, but only by a by-law passed with the like assent. Repeal of by-law

(3) Notwithstanding subsection 1, the council of a corporation may by by-law provide for the renewal or replacement of any local improvement work at the expense of the corporation, or partly at the expense of the corporation and partly as a local improvement, or wholly as a local improvement. R.S.O. 1950, c. 215, s. 66. Renewal or replacement of local improvement works

MISCELLANEOUS

70. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against encumbrances, or for the right to convey, or for quiet possession free from encumbrances, be deemed to be an encumbrance upon the land upon which the special rate is charged or chargeable. R.S.O. 1950, c. 215, s. 67. Special rates and covenant against encumbrances

71. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. R.S.O. 1950, c. 215, s. 68. When work may be completed

Board may
prescribe
forms

72. The Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto, but the use of such forms is not obligatory. R.S.O. 1950, c. 215, s. 69.

FORM 1

(Section 10)

Take notice that

1. The council of The Corporation of the of intends to construct as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation. The estimated cost per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. A petition to the council will not avail to prevent its construction, but a petition against the work or the manner in which it has been undertaken may be made, pursuant to section 10 of *The Local Improvement Act*, to the Ontario Municipal Board, by a majority of the owners representing at least one-half of the value of the lots that are to be specially assessed therefor.

4. A by-law for undertaking the work will be considered by the council at a meeting thereof to be held on the day of, 19....., or at a regular or special meeting thereof to be held thereafter.

Dated

Clerk

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.)

R.S.O. 1950, c. 215, Form 1.

FORM 2

(Section 8)

Take notice that

1. The council of The Corporation of the of intends to construct as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation. The estimated cost per foot frontage is \$..... The special assessment is to be paid in equal annual instalments and the estimated annual rate per foot frontage is cents.

3. Application will be made by the Corporation to the Ontario Municipal Board for its approval of the undertaking of the work and any owner may within 21 days after the first publication of this notice file with the Board his objection to the work being undertaken.

4. The Board may approve of the work being undertaken, but before doing so it may appoint a time and place when any objections to the work will be considered.

Dated..... Clerk

(Note.—Where it is intended to assess part of the cost upon non-abutting land, the form of notice is to be amended to show the cost per foot frontage and the annual frontage rate to be charged against such lands.)

R.S.O. 1950, c. 215, Form 2.

FORM 3

(Section 12)

Take notice that

1. The council of The Corporation of the of intends to construct (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation, and the estimated cost per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the day of, 19.....

Dated..... Clerk

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.)

R.S.O. 1950, c. 215, Form 3.

FORM 4

(Section 43 (2), 49 (1))

Take notice that

1. The council of The Corporation of the of has constructed as a local improvement (*describe the work*) on (*or in*) street between (*describe the points between which the work has been constructed*).

2. The cost of the work is \$. of which \$. is to be paid by the Corporation. The special rate per foot frontage is \$. The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is years.

4. A court of revision will be held on the day of 19...., at o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint that persons interested may desire to make and that is by law cognisable by the court.

(*or where the court of revision proceeds under section 49*)

5. You are served with this notice because the court of revision is of opinion that your lot, though not specially assessed, should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the court will be held on the day of 19...., at o'clock at the (*insert place of meeting*) when the matter will be determined by the court.

Dated.....

Clerk

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.*)

R.S.O. 1950, c. 215, Form 4

CHAPTER 224

The Logging Tax Act

1. In this Act,

Interpre-
tation

- (a) "Comptroller" means the Comptroller of Revenue;
- (b) "logging operations" includes the sale of standing timber, the sale of the right to cut standing timber, the sale of logs, the delivery of logs to a sawmill, pulp or paper plant or other place for processing or manufacturing, the delivery of logs to a carrier for export, the export of logs, the acquisition of standing timber, the acquisition of the right to cut standing timber, the cutting of logs from standing timber, the acquisition of logs, the import of logs, and the transportation of logs, or any combination of such operations;
- (c) "taxation year" means the calendar year or, where the fiscal year of the taxpayer does not coincide with the calendar year, the fiscal year ending within the calendar year;
- (d) "taxpayer" means an individual, partnership, association, syndicate or corporation that engages in logging operations in Ontario, and includes the heirs, executors, administrators, trustees and agents, as the case may be, of any of them;
- (e) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 216, s. 1; 1957, c. 65, s. 1.

2.—(1) Every taxpayer shall for every taxation year pay ^{Tax} a tax of 9 per cent on the income in excess of \$10,000 that he derives during such year from logging operations.

(2) There may be deducted from the tax otherwise payable ^{Deduction} by a taxpayer under this section for a taxation year an amount _{from tax} equal to 9 per cent of that portion of his income from logging operations in excess of \$10,000 that is earned in the taxation year outside Ontario.

(3) The amount of income that shall be deemed to be earned ^{Allocation} outside Ontario for a taxation year is the total of, _{of income}

(a) that proportion of the difference between the income derived from logging operations by the taxpayer for the taxation year and the total of,

(i) the difference between the amount for which the taxpayer sold standing timber during the taxation year and the cost of acquisition thereof, and

(ii) the difference between the amount for which the taxpayer sold the right to cut standing timber during the taxation year and the cost of acquisition thereof,

that the quantity of logs cut or acquired by the taxpayer outside Ontario is of the total quantity of logs cut or acquired by the taxpayer during the taxation year; and

(b) the difference between the amount for which the taxpayer sold standing timber situated outside Ontario during the taxation year and the cost of acquisition thereof; and

(c) the difference between the amount for which the taxpayer sold the right to cut standing timber situated outside Ontario during the taxation year and the cost of acquisition thereof.

Operations
by same
person

(4) For the purposes of determining liability of taxation under this Act, all logging operations owned, leased, worked or operated by the same taxpayer, or under the same general control, or the income from which accrues to the same taxpayer, shall be deemed to be and be dealt with as one and the same logging operation and not as separate logging operations.

Affiliated
corporations

(5) In the case of logging operations carried on by two or more affiliated or associated corporations under the same general control, or the income from which accrues for the benefit of substantially the same shareholders, the income from such operations shall be combined and dealt with as the income of one and the same taxpayer. 1957, c. 65, s. 2, *part*.

Interpre-
tation

3. In this Act, "income derived from logging operations" means the net profit or gain of the taxpayer during the taxation year determined by deducting from the value of the logs disposed of, the total cost to him of,

- (a) the acquisition of standing timber;
- (b) the acquisition of the right to cut standing timber;
- (c) cutting logs from standing timber;
- (d) the acquisition of logs;

- (e) the import of logs; and
- (f) the transportation of logs,

but excluding from such total cost any amount withdrawn by any individual or any member of a partnership, syndicate or association as salary or other remuneration if such individual, partnership, syndicate or association is a taxpayer. 1957, c. 65, s. 2, *part.*

4. In this Act, "value of logs disposed of" means,

Interpre-
tation

- (a) in the case of the sale of standing timber, the amount for which the taxpayer sold it;
- (b) in the case of the sale of the right to cut standing timber, the amount for which the taxpayer sold such right whether on a stumpage, royalty or other basis used in calculating such amount;
- (c) in the case of the sale of logs, the amount for which the taxpayer sold them;
- (d) in the case of the delivery of logs to a sawmill, pulp or paper plant or place for processing logs operated by the taxpayer wherein the logs are processed or manufactured into a product, the difference between,
 - (i) the sale value of such product,

and the total of,

- (ii) the cost of such processing or manufacturing, including capital cost allowances with respect to machinery, equipment, plant, buildings, works and improvements used therein and all charges relating to such processing or manufacturing except amounts withdrawn by any individual or any member of a partnership, syndicate or association as salary or other remuneration if such individual or partnership, syndicate or association is a taxpayer and except taxes payable under this Act, that would be deductible in computing the income of the taxpayer from such processing or manufacturing under Divisions A and B of Part III of *The Corporations Tax Act* and the regulations made thereunder if those Divisions were applicable to the taxpayer, and

- (iii) an amount by way of return of capital employed by the taxpayer in processing or manufacturing logs equal to 8 per cent of the original cost to him of the depreciable assets used by

R.S.O. 1960,
c. 73

him in such processing or manufacturing, including machinery, equipment, plant, buildings, works and improvements, but such amount shall not be less than 35 per cent or more than 65 per cent of an amount equal to the difference between the taxable income derived by him from all sources, measured in accordance with Part III of *The Corporations Tax Act* but before the deduction under that Act of any tax payable under this Act, and the total of,

- (A) the returns received by him by way of dividends, interest or other like payments from stocks, shares, debentures, loans or other like investments, and
- (B) the net profit, if any, derived by him from and attributable in accordance with sound accounting principles to the carrying on of any business or derived from and so attributable to any source other than logging operations and the processing or manufacturing of logs, and
- (C) the net profit, if any, derived by him under clauses *a*, *b* and *c*,

and, whether such processing or manufacturing is within or outside Ontario,

- (iv) the cost of transportation of the logs from the point of delivery to a carrier to the point of delivery to the sawmill, pulp or paper plant or other place used for the processing or manufacturing of the logs. 1957, c. 65, s. 2, *part*.

Inadequate
considera-
tion

5.—(1) Where a taxpayer purchases anything from a person with whom he is not dealing at arms-length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been paid or to be payable therefor.

Idem

(2) Where a taxpayer sells anything to a person with whom he is not dealing at arms-length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been received or to be receivable therefor.

Idem

(3) Where a taxpayer pays or agrees to pay to a person with whom he is not dealing at arms-length as price, royalty, rental or other payment for use or reproduction of any property

an amount computed at a rate higher than that at which similar payments by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by such other persons shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been the amount that is paid or is payable therefor.

(4) Where a taxpayer is an incorporated company and ^{Idem} directly or indirectly distributes to its shareholders any of its property either on winding-up, or otherwise, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the income of the taxpayer under sections 3 and 4, it shall be deemed, for the purpose of determining such income, to have sold the property during the taxation year and to have received therefor the fair market value thereof.

(5) For the purpose of this section,

^{Arms-length}

- (a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled;
- (b) corporations controlled directly or indirectly by the same person; or
- (c) persons connected by blood relationship, marriage or adoption,

shall, without extending the meaning of the expression "to deal with each other at arms-length", be deemed not to deal with each other at arms-length. R.S.O. 1950, c. 216, s. 5.

6.—(1) A return of the income of each taxpayer for each ^{Return} taxation year shall, without notice or demand therefor, be filed with the Comptroller containing such information as is required,

- (a) in the case of a corporation, by or on behalf thereof, within six months from the end of the taxation year;
- (b) in the case of a person who has died without making the return, by his legal representatives, within six months from the day of death;
- (c) in the case of an estate or trust, within ninety days from the end of the taxation year;
- (d) in the case of any other taxpayer, on or before the 30th day of April in the next year, by that taxpayer or, if he is unable for any reason to file the return, by his guardian, committee or other legal representative; or

- (e) in the case where no person described by clause *a, b, c* or *d* has filed the return, by such person as is required by notice in writing from the Treasurer to file the return, within such reasonable time as the notice specifies.

Demand for
return

(2) Every person, whether or not he is liable to pay tax under this Act for a taxation year and whether or not he has filed a return under subsection 1, shall upon receipt at any time of a demand therefor in writing from the Treasurer, file forthwith with the Treasurer a return of his income for that year, containing such information as is required.

Trustees,
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a taxpayer who has not filed a return for a taxation year as required by this section shall file a return of the income of such taxpayer for that year.

Death of a
partner or
proprietor

(4) Where a taxpayer who is a partner in or who is a proprietor of a business engaged in logging operations in Ontario died after the close of a taxation year but before the end of the calendar year in which the taxation year closed, a separate return of the taxpayer's income after the close of the taxation year to the time of death shall be filed and the tax payable under this Act shall be paid thereon as if that income were the income of another taxpayer.

Extension

(5) The Treasurer may at any time extend the time for making a return under this Act. R.S.O. 1950, c. 216, s. 6; 1957, c. 65, s. 3.

Estimate
of tax

7. Every taxpayer required by section 6 to file a return shall estimate in the return the amount of tax payable. R.S.O. 1950, c. 216, s. 7.

Assessment
of tax

8.—(1) The Treasurer shall, with all due despatch, examine each return and assess the tax for the taxation year and the interest and penalties, if any, payable.

Notice of
assessment

(2) After examination of a return, the Treasurer shall send a notice of assessment to the person by whom the return was filed.

Liability for
tax not
affected

(3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Re-assess-
ment, etc.

(4) The Treasurer may, at any time, assess tax, interest or penalties and may,

- (a) at any time, if the taxpayer or person filing the return has made any misrepresentation or committed any fraud in filing the return or supplying information under this Act; and
- (b) within six years from the day of an original assessment in any other case,

re-assess or make additional assessments.

(5) The Treasurer is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act. ^{Treasurer not bound by return}

(6) An assessment shall, subject to being varied or vacated on appeal under this Act and subject to re-assessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. ^{Errors, etc.} R.S.O. 1950, c. 216, s. 8.

9.—(1) The taxes imposed by this Act shall be deemed to be due on the last day of the taxation year of the taxpayer for which such taxes are imposed. ^{Taxes, when to accrue}

(2) Every taxpayer on which a tax is imposed by this Act shall pay, ^{Dates of payment}

- (a) not later than the close of the taxation year in respect of which the tax is payable, an amount equal to one-half of the tax as estimated by him for the last preceding taxation year or for the taxation year in respect of which the tax is payable, at the rate applicable for such last-mentioned taxation year;
- (b) not later than the fifteenth day of the third month following the month in which the taxation year in respect of which the tax is payable closed, an amount equal to the balance of the tax as so estimated; and
- (c) at the time of making the return under subsection 1 of section 6, the balance, if any, of the tax payable as estimated by the taxpayer in the return.

(3) Where the amount paid on account of tax payable by a taxpayer for a taxation year before the expiration of the time allowed for filing his return under section 6 is less than the amount of tax payable for the taxation year, the taxpayer liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return to the date of payment at the rate of 6 per cent per annum. ^{Interest on unpaid tax}

Idem

(4) Where a taxpayer being required by subsection 2 to pay a part or instalment of tax has failed to pay all or any part thereof as required, the taxpayer, in addition to the interest payable under subsection 3, shall pay interest on the amount he failed to pay at 6 per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he became liable to pay interest thereon under subsection 3, whichever is earlier.

Idem

(5) For the purposes of subsection 4, the taxpayer shall be deemed to have been liable to pay a part or instalment under subsection 2 computed by reference to the tax payable for,

(a) the last preceding taxation year; or

(b) the taxation year in respect of which the tax is payable,

whichever is lesser.

Limitation
on interest

(6) No interest under this section upon the amount by which the unpaid tax exceeds the amount estimated under section 7 is payable in respect of the period beginning twenty months after the day fixed by section 6 for filing the return with respect to which the taxes are payable or twenty months after the return was in fact filed, whichever was later, and ending thirty days from the date of the mailing of the notice of the original assessment for the taxation year. R.S.O. 1950, c. 216, s. 9.

Penalty for
default

10.—(1) When a taxpayer is in default in complying with subsection 1 of section 6, he is liable to a penalty of,

(a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed, if the tax payable by him for the taxation year that was unpaid at that time was less than \$10,000; and

(b) \$500, if at the time the return was required to be filed, tax payable by him for the taxation year of \$10,000 or more was unpaid.

Idem

(2) When a taxpayer fails to complete the information required on the return under subsection 1 of section 6, he is liable to a penalty of 1 per cent of the tax payable by him, but in no such case shall the penalty be less than \$1 or more than \$20. R.S.O. 1950, c. 216, s. 10.

Payments
on behalf
of others

11.—(1) Every person required by section 6 to file a return for a taxpayer for a taxation year shall, within thirty days from the date of mailing of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that

taxpayer to the extent that he has or had, at any time since the taxation year, in his possession or control, property belonging to that taxpayer or his estate and shall thereupon be deemed to have made that payment on behalf of the taxpayer.

(2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Treasurer certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property. ^{Certificate before distribution}

(3) Distribution of property without a certificate required by subsection 2 renders the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties. ^{Liability} R.S.O. 1950, c. 216, s. 11.

12.—(1) The Treasurer may, upon mailing the notice of assessment, refund, without application therefor, any over-payment made on account of the tax and he shall make such refund after mailing the notice of assessment if application in writing is made therefor by the taxpayer within twelve months from the date the over-payment was made or the day on which the notice of assessment was sent. ^{Refunds}

(2) Instead of making a refund that might otherwise be made under this section, the Treasurer may, where the taxpayer is liable or about to become liable to make another payment under this Act, apply the amount of the over-payment to that other liability and notify the taxpayer of that action. ^{Application to other taxes}

(3) Where an amount of \$50 or more in respect of an over-payment is refunded or applied on other liability under this section, interest shall be paid or applied for the period commencing, ^{Interest on over-payment}

(a) six months from the day when the over-payment arose;

(b) on the day on or before which the return in respect of which the tax was paid was required to be filed; or

(c) on the day that the return was in fact filed,

whichever was later, and ending with the day of refunding or application aforesaid at the rate of 3 per cent per annum.

(4) For the purpose of this section, "over-payment" means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid when no amount is so payable. ^{Interpretation} R.S.O. 1950, c. 216, s. 12.

Records
and books

13.—(1) Every taxpayer shall keep records and books of account at his place of business or at such other place as is designated by the Treasurer, in such form and containing such information as will enable the taxes payable under this Act to be determined.

Idem

(2) Where a taxpayer has failed to keep adequate records and books of account for the purposes of this Act, the Treasurer may require him to keep such records and books of account as he specifies and the taxpayer shall thereafter keep records and books of account as so required.

Idem

(3) Every taxpayer required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Treasurer, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book. R.S.O. 1950, c. 216, s. 13.

Investi-
gation

14.—(1) Any person thereunto authorized by the Treasurer for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are, or should be, kept pursuant to this Act, and

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the taxpayer or manager of the property or business being examined and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing on oath or by statutory declaration and, for that purpose, require the taxpayer or other person to attend at the premises or place with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act, seize and take away any of the books, records, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Treasurer may, for the purposes related to the administration or enforcement of this Act, by registered mail ^{Demand for information, etc.} or by demand served personally, require from any person,

- (a) any information or additional information, including a return or a supplementary return; or
- (b) production or production on oath of any books, letters, accounts, invoices, financial or other statements or other documents,

within such times as are stipulated therein.

(3) The Treasurer may authorize any person to make such ^{Inquiry} inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1950, c. 216, s. 14 (1-3).

(4) Where any book, record or other document has been ^{Copies} seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the office of the Comptroller may make or cause to be made one or more copies thereof and the document purporting to be certified by the Treasurer or a person thereunto authorized by the Treasurer to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way. R.S.O. 1950, c. 216, s. 14 (4); 1957, c. 65, s. 4.

(5) No person shall hinder or molest or interfere with any ^{Compliance} person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall do everything he is required by or pursuant to this section to do.

(6) For the purpose of an inquiry under subsection 3, the ^{Powers} person authorized to make the inquiry has all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1950, c. 216, s. 14 (5, 6). ^{R.S.O. 1960, c. 323}

15. The Treasurer shall administer and enforce this Act <sup>Adminis-
tration</sup> and control and supervise all persons employed to carry out or enforce this Act and the Comptroller may exercise all the powers and perform the duties of the Treasurer under this Act. R.S.O. 1950, c. 216, s. 15; 1957, c. 65, s. 5.

**Notice of
appeal**

16.—(1) Any taxpayer who objects to an assessment under this Act may, within sixty days from the date of the mailing of the notice of assessment, by himself or by his solicitor, serve a notice of appeal on the Treasurer.

Service

(2) The notice of appeal shall be served by sending it by registered mail addressed to the Treasurer.

**Form of
notice of
appeal**

(3) The notice of appeal shall follow Form 1 to this Act as closely as may be and shall set out clearly the reasons for appeal and all facts relative thereto. R.S.O. 1950, c. 216, s. 16.

**Decision
of the
Treasurer**

17. Upon receipt of the notice of appeal, the Treasurer shall duly consider it, affirm or amend the assessment appealed against, and notify the appellant of his decision by registered mail. R.S.O. 1950, c. 216, s. 17.

**Notice of
dissatis-
faction**

18.—(1) If the appellant, after receipt of the decision, is dissatisfied therewith, he may, within sixty days from the date of the mailing of the decision, send to the Treasurer by registered mail a notice of dissatisfaction.

**Form of
notice of
dissatis-
faction**

(2) The notice of dissatisfaction shall follow Form 2 to this Act as closely as may be and shall state that the appellant desires that his appeal be set down for trial.

**Statement
with notice**

(3) The appellant shall forward with the notice of dissatisfaction a final statement of such further facts, statutory provisions and reasons that he intends to submit to the court in support of the appeal as were not included in the notice of appeal, or in the alternative, a recapitulation of all facts, statutory provisions and reasons included in the notice of appeal, together with such further facts, provisions and reasons as the appellant intends to submit to the court in support of the appeal. R.S.O. 1950, c. 216, s. 18.

Security

19.—(1) The appellant shall thereupon give security in the sum of \$400 or such other sum as the Treasurer requires for the costs of the appeal in a form satisfactory to the Treasurer, but in lieu of other security the appellant may pay into court the sum of \$200 or such other sum as the Treasurer requires, in which case the appellant shall, when paying such sum in, state the purpose for which it is paid in and shall forthwith serve a notice on the Treasurer specifying the fact and purpose of the payment.

**Proceedings
voided**

(2) Unless such security is furnished by the appellant within thirty days after the mailing of the notice of dissatisfaction, the appeal and all proceedings thereunder are void. R.S.O. 1950, c. 216, s. 19.

20. Upon receipt of the notice of dissatisfaction and statement of facts, the Treasurer shall send by registered mail to the appellant a reply admitting or denying the facts alleged and confirming or amending the assessment or any amended, additional or subsequent assessment. R.S.O. 1950, c. 216, s. 20.

Decision upon receipt of statement of facts

21.—(1) Within sixty days from the date of the mailing of the reply, the Treasurer shall cause to be transmitted to the Registrar of the Supreme Court or the local registrar of the court for the county or district in which the appellant has his office or transacts business, to be filed in the court, copies of,

Copy of documents to be filed

- (a) the return of the appellant, if any, for the taxation year under review;
- (b) the notice of assessment appealed;
- (c) the notice of appeal;
- (d) the decision;
- (e) the notice of dissatisfaction;
- (f) the reply; and
- (g) all other documents and papers relative to the assessment under appeal.

(2) The matter shall thereupon be deemed to be an action in the court and shall be set down for trial forthwith by the Registrar or local registrar, as the case may be, and thereafter shall be proceeded with in the same manner as an action commenced in the court, but the court or a judge may at any time before the commencement of the trial make such other order relating to the delivery of pleadings as is deemed proper.

Matter deemed action

(3) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every such action, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1950, c. 216, s. 21.

Supreme Court practice to govern

22. All subsequent proceedings shall be entitled:

Title of cause

In re *The Logging Tax Act* and the appeal of
 of in the
 Province of

and notice and copies of all further proceedings shall be served on the Treasurer. R.S.O. 1950, c. 216, s. 22.

Conditional
limitations
of evidence

23.—(1) After an appeal has been set down for trial, any fact or statutory provision not set out in the notice of appeal or notice of dissatisfaction may be pleaded or referred to in such manner and upon such terms as the court or a judge thereof directs.

Matter may
be referred
back to
Treasurer

(2) The court may refer the matter back to the Treasurer for further consideration. R.S.O. 1950, c. 216, s. 23.

Jurisdiction
of court

24. Subject to this Act, the Supreme Court has exclusive jurisdiction to hear and determine all questions that arise in connection with any assessment made under this Act, and in delivering judgment may make any order as to the payment of any tax, interest or penalty or as to costs as to the court seems right and proper. R.S.O. 1950, c. 216, s. 24.

Irregulari-
ties

25. An assessment shall not be varied or disallowed because of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issue of the notice of assessment. R.S.O. 1950, c. 216, s. 25.

Proceedings
in camera

26. Any such proceedings before the Supreme Court hereunder shall be held *in camera* upon request made to the court by any party to the proceedings. R.S.O. 1950, c. 216, s. 26.

Right of
appeal
barred

27. If a notice of appeal is not served or a notice of dissatisfaction is not mailed within the time limited therefor, the right of the taxpayer assessed to appeal ceases and the assessment is valid and binding notwithstanding any error, defect or omission therein or in any proceedings required by this Act. R.S.O. 1950, c. 216, s. 27.

Debts to
Her
Majesty

28. All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Ontario and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act. R.S.O. 1950, c. 216, s. 28.

Warrant of
execution

29. Where an amount payable under this Act has not been paid, the Treasurer may, upon the expiration of thirty days from the default, issue a warrant and may direct it to the sheriff of any county or district in which any property of the taxpayer is located or situated, for the amount of the tax, interest and penalty, or any of them, owing by the taxpayer to the Treasurer, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1950, c. 216, s. 29.

30.—(1) When the Treasurer has knowledge or suspects ^{Garnish-}ment that any person is or is about to become indebted or liable to make any payment to a taxpayer liable to make a payment under this Act, he may, by registered letter, require him to pay the moneys otherwise payable to that taxpayer in whole or in part to the Treasurer on account of the liability under this Act.

(2) The receipt of the Treasurer for moneys paid as required ^{Idem} under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a ^{Idem} taxpayer liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is lesser. R.S.O. 1950, c. 216, s. 30.

31. All taxes, interest, penalties, costs and other amounts ^{Priority}of tax payable under this Act are a first lien and charge upon the property in Ontario of the taxpayer liable to pay such taxes, interest, penalties, costs and other amounts. R.S.O. 1950, c. 216, s. 31.

32. If any doubt or dispute arises as to the liability of any taxpayer to pay a tax or any part of a tax demanded under this Act, or, if owing to special circumstances, it is deemed inequitable to demand payment of the whole amount imposed under this Act, the Treasurer may accept such amount as he deems proper, and if the tax demanded has been paid under protest, he may refund the amount paid or any part thereof. R.S.O. 1950, c. 216, s. 32. ^{Compromise}

33.—(1) Every person who has failed to file a return or any information as and when required by or under this Act is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$25 for each day of default. ^{Offences}

(2) Every person who has contravened section 13 or section ^{Idem} 14 is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than \$200 and not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

(3) Every person, ^{Idem}

(a) who has made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act;

- (b) who has, to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer;
- (c) who has made, or assented to or acquiesced in the making of false or deceptive entries in records or books of account of a taxpayer;
- (d) who has failed, or assented to or acquiesced in the failure, to enter a material particular in records or books of account of a taxpayer;
- (e) who has wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (f) who has conspired with any person to commit any offence under clauses *a* to *e*,

is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 and not more than \$10,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1950, c. 216, s. 33.

Communi-
cation of
information

34. Every person who, while employed in the service of Her Majesty, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act, or has allowed any such person to inspect or have access to any written statement furnished under this Act, is guilty of an offence and liable on summary conviction to a fine of not more than \$200. R.S.O. 1950, c. 216, s. 34.

Declara-
tions

35. Declarations or affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but a person so specially authorized shall not charge a fee therefor. R.S.O. 1950, c. 216, s. 35.

Information

36.—(1) An information under this Act may be laid or made by any officer of the Treasury Department or by any person thereunto authorized by the Treasurer and, where an information purports to have been laid under this Act, it shall be deemed to have been laid by a person thereunto authorized by the Treasurer and shall not be called in question for lack of authority of the informant except by the Treasurer or by some person acting for him.

(2) An information in respect of an offence under this Act may be for one or more than one offence and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1950, c. 216, s. 36 (1, 2). ^{Two or more offences}

(3) An information under Part XXIV of the *Criminal Code* (Canada) in respect of an offence under this Act may be laid on or before a day five years from the time when the matter of the information arose or within one year from the day on which evidence, sufficient in the opinion of the Treasurer to justify a prosecution for the offence, came to his knowledge, and his certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof. ^{Limitation of prosecution 1953-54, c. 51 (Can.)}

(4) Where by this Act provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Treasury Department sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating such address, and that he identifies as exhibits attached to the affidavit the post-office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand, shall be received as *prima facie* evidence of the sending of the request, notice or demand. ^{Proof of service by mail}

(5) Where by this Act a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Treasury Department, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records, he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person, shall be received as *prima facie* evidence that in such case that person did not make the return, statement, answer or certificate, as the case may be. ^{Proof of failure to comply}

(6) Where by this Act a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Treasury Department, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that, after careful examination of such records, he has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as *prima facie* evidence that it was filed or made on that day. ^{Proof of time of compliance}

Proof of
documents

(7) An affidavit of an officer of the Treasury Department, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that a document annexed thereto is a document or a true copy of a document made by or on behalf of the Treasurer or some person exercising the powers of the Treasurer or by or on behalf of the taxpayer, shall be received as *prima facie* evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

Proof of
no appeal

(8) An affidavit of an officer of the Treasury Department, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed to a taxpayer on a particular day pursuant to this Act and that, after careful examination and search of the records, he has been unable to find that a notice of appeal from the assessment or a notice of objection to the decision of the Treasurer was received within the time allowed therefor, shall be received as *prima facie* evidence of the statements contained therein.

Presump-
tion

(9) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Treasury Department, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn. R.S.O. 1950, c. 216, s. 36 (4-10).

Effect

37. This Act is effective with respect to the taxation years of taxpayers ending in 1949 and subsequent taxation years. R.S.O. 1950, c. 216, s. 37.

FORM 1

(Section 16 (3))

NOTICE OF APPEAL

In re *The Logging Tax Act* and.....
 (Name of taxpayer)

of the.....of.....in the
 (Address)

Province of.....
 Appellant

Notice of Appeal is hereby given from the assessment bearing date the.....day of....., 19...., wherein a tax of \$.....was levied in respect of income from logging operations in Ontario for the taxation of the year 19.....

Then follow with:

1. Full statement of facts.
2. Full statement of reason for appeal.

Dated this.....day of....., 19.....

.....
 (Signature of Appellant)

R.S.O. 1950, c. 216, Form 1.

FORM 2

(Section 18 (2))

NOTICE OF DISSATISFACTION

In re *The Logging Tax Act* and the appeal of.....
 (Name of taxpayer)

of the.....of.....in the
 (Address)

Province of.....

I desire my appeal to be set down for trial.

Dated this.....day of....., 19.....

.....
 (Signature)

R.S.O. 1950, c. 216, Form 2.

CHAPTER 225

The Lord's Day (Ontario) Act

1. Where a by-law passed under section 2 is in force and subject to its provisions, it is lawful for any person between 1.30 o'clock and 6 o'clock in the afternoon of the Lord's Day to provide, engage in or be present at any public game or sport that is specified in such by-law and which but for this Act would be unlawful under section 6 of the *Lord's Day Act* (Canada), or to do or engage any other person to do any work, business or labour in connection with any such public game or sport which but for this Act would be unlawful under section 4 of the *Lord's Day Act* (Canada). R.S.O. 1950, c. 218, s. 1. Sunday sports may be made lawful
R.S.C. 1952, c. 171

2.—(1) Subject to section 3, the council of any city, town, village or township may pass a by-law declaring section 1 to be in force in the municipality or in such part or parts thereof as are specified in the by-law and, upon such by-law coming into force, section 1 applies in the municipality or in the specified part or parts, as the case may be. Implementing by-law authorized

(2) The application of section 1 is limited to such public games or sports as are specified in the by-law. Sports to be specified

(3) The by-law shall not specify horse-racing as a public game or sport. Horse-racing

(4) Where section 1 applies in specified parts of a municipality, the limitation authorized by subsection 2 may differ in different parts. Different sports in different parts

(5) The by-law may reduce the period of time between 1.30 o'clock and 6 o'clock mentioned in section 1. Reduction of hours

(6) The by-law shall provide for the regulation and control of the public games and sports specified in it and may provide for the regulation and control of any matter or thing in connection with such public games and sports. R.S.O. 1950, c. 218, s. 2. Regulation and control

3.—(1) No by-law under section 2 shall be passed until the following question has been submitted to the electors: Condition precedent to passing of by-law

Are you in favour of public games and sports on the

Lord's Day to be regulated by municipal by-law under the authority of *The Lord's Day (Ontario) Act*?

Initiation of
by-law by
council

(2) The council may submit the question set out in subsection 1 to the electors at any time.

Initiation of
by-law by
petition

(3) Upon the presentation of a petition requesting that a by-law under this Act be passed, signed by at least 10 per cent of the electors of the municipality, the council shall before or at the next municipal election submit the question set out in subsection 1 to the electors, but, if a petition is presented in the month of November or December in any year, it shall be deemed to be presented in the month of February next following. R.S.O. 1950, c. 218, s. 3.

Condition
precedent
to repeal
of by-law

4.—(1) No by-law passed under section 2 shall be repealed until the following question has been submitted to the electors:

Are you in favour of the repeal of the by-law passed under the authority of *The Lord's Day (Ontario) Act* that regulates public games and sports on the Lord's Day?

Initiation
of repealing
by-law
by council

(2) The council may submit the question set out in subsection 1 to the electors at any time.

Initiation
of repealing
by-law
by petition

(3) Upon the presentation of a petition requesting that the by-law passed under section 2 be repealed, signed by at least 10 per cent of the electors of the municipality, the council shall before or at the next municipal election submit the question set out in subsection 1 to the electors, but, if a petition is presented in the month of November or December in any year, it shall be deemed to be presented in the month of February next following. R.S.O. 1950, c. 218, s. 4.

Presentation
and
sufficiency
of petition

5. A petition mentioned in section 3 or 4 shall be deemed to be presented when it is lodged with the clerk of the municipality and the sufficiency of the petition shall be determined by him and his certificate as to its sufficiency is conclusive for all purposes. R.S.O. 1950, c. 218, s. 5.

Sunday
musical
concerts
lawful

6. It is lawful for any person between 1.30 o'clock and 6 o'clock in the afternoon of the Lord's Day to provide, engage in or be present at any concert, recital or other musical performance of an artistic and cultural nature produced by a non-profit organization at which an admission fee is charged and which but for this Act would be unlawful under section 6 of the *Lord's Day Act* (Canada), or to do or engage any other person to do any work, business or labour in connection with any such concert, recital or other musical performance which but for this Act would be unlawful under section 4 of the *Lord's Day Act* (Canada). 1960, c. 62, s. 1, *part*.

R.S.C. 1952,
c. 171

7. If and so long as the time commonly observed in a municipality in which a by-law passed under section 2 is in force or in which a concert, recital or other musical performance is produced under section 6 is one hour in advance of standard time, the times mentioned in section 1 or 6, as the case may be, shall be reckoned in accordance with the time so commonly observed and not standard time. R.S.O. 1950, c. 218, s. 6; 1960, c. 62, s. 1, *part, revised*.

Where daylight saving time in effect

100
101
102
103
104

